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 8 ERIC RIMES

9 **UNITED STATES DISTRICT COURT**
 10 **NORTHERN DISTRICT OF CALIFORNIA**
 11 **SAN FRANCISCO DIVISION**

11	ERIC RIMES, an individual,)	Case No.: CV 09-0281 EMC
12)	
13	Plaintiff,)	PLAINTIFF'S REQUEST TO VACATE
14)	CONDITIONAL DISMISSAL
15	vs.)	
16	NOTEWARE DEVELOPMENT LLC and)	
17	DOES 1-25, inclusive,)	
18)	
19	Defendants.)	

20 Defendants Jim Noteware and Noteware Development LLC were jointly and severally
 21 responsible for fulfilling the terms of a settlement agreement entered into with plaintiff Eric
 22 Rimes in November 2010. On December 22, 2010, the Court issued a 90 day conditional
 23 dismissal.

24 Prior to the payment of all monies owed to plaintiff under the settlement agreement, Jim
 25 Noteware filed for personal bankruptcy. Jim Noteware's bankruptcy counsel Matthew Hoffman
 has indicated that defendant Noteware Development LLC (which has not filed for bankruptcy)
 has no intention of paying any of the money it owes to plaintiff under the settlement agreement.

1 Accordingly, the 90 day conditional dismissal should be vacated to allow further
2 proceedings against Noteware Development LLC as specified in the settlement agreement, with
3 any stay on the action limited to Jim Noteware.

4 DATED: February 17, 2011

LAW OFFICES OF MAUREEN E. MCFADDEN

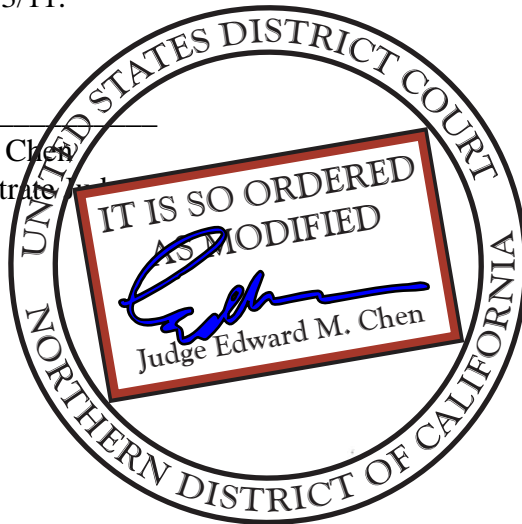
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6
7 By: 

Maureen E. McFadden

8 Attorney for Plaintiff
9 ERIC RIMES
10

11 IT IS SO ORDERED that the clerk of the court is directed to reopen this case. A status
12 conference is set for 4/20/11 at 2:30 p.m. A joint status conference statement shall be
13 filed by 4/13/11.

14 _____
15 Edward M. Chen
16 U.S. Magistrate



PROOF OF SERVICE

I, the undersigned, declare that I am employed in the County of Alameda, State of California. I am over the age of eighteen (18) years and not a party to the within cause. My business address is 405 Fourteenth Street, Suite 915, Oakland CA 94612.

On February 17, 2011, I served the following document:

PLAINTIFF'S REQUEST TO VACATE CONDITIONAL DISMISSAL

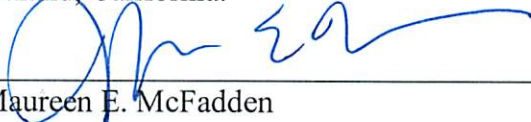
BY MAIL in the said cause by placing a true copy thereof enclosed in a sealed envelope, with postage thereon fully prepaid, in the United States mail at Berkeley, CA addressed as shown below.

BY HAND DELIVERY by causing a true copy thereof enclosed in a sealed envelope, to be delivered by hand to the address(es) shown below.

BY OVERNIGHT DELIVERY by placing a true copy thereof, enclosed in a sealed envelope, with delivery charges fully paid, to be delivered overnight to the address(es) shown below.

Carla Hartley Dillingham & Murphy LLP 225 Bush Street, 6 th Floor San Francisco, CA 94104	
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I declare under penalty of perjury that the foregoing is true and correct.
Executed this 17th day of February 2011 at Oakland, California.



Maureen E. McFadden