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10 Attorneys for Plaintiff
11 CAPITAL TRUST, INC.

12 **IN THE UNITED STATES DISTRICT COURT**
13 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
(SAN FRANCISCO DIVISION)

14 CAPITAL TRUST, INC.,

15 Plaintiff,

16 vs.

17 WALTER R. LEMBI, individually and as
trustee of the WALTER AND LINDA LEMBI
FAMILY TRUST DATED JUNE 30, 2004;
18 FRANK E. LEMBI, individually and as trustee
of the OLGA LEMBI RESIDUAL TRUST
CREATED UNDER THE PROVISIONS OF
19 PART THREE OF THE LEMBI FAMILY
REVOCABLE TRUST DATED FEBRUARY
20 17, 1984, and as the trustee of the FRANK E.
LEMBI'S TRUST DATED FEBRUARY 17,
21 1984; BILLIE SALEVOURIS, individually;
22 BILLIE Z. SALEVOURIS, as trustee for THE
BILLIE SALEVOURIS TRUST DATED
23 AUGUST 23, 1983 AS RESTATED ON MAY
24 24, 2002; DAVID M. RAYNAL, individually
and as trustee for the DAVID M. RAYNAL
REVOCABLE TRUST DATED MAY 9, 2002;
25 RALPH DAYAN, individually and as co-
trustee for the AMENDED AND RESTATED
26 DAYAN FAMILY REVOCABLE TRUST
DATED DECEMBER 31, 1991,

27 Defendants.
28

Case No. C 09-02492 JSW

**STIPULATION AND ~~PROPOSED~~
ORDER TO CONTINUE DEADLINE TO
COMPLETE MEDIATION AND TO
CONTINUE HEARING ON MOTIONS
SCHEDULED FOR JANUARY 28TH**

Judge: Hon. Jeffrey S. White
Courtroom 11, 19th Flr.

1 By and through their respective counsel of record, the parties to this action hereby
2 stipulate and agree as follows:

3 WHEREAS, pursuant to the Court's August 13, 2010 Civil Minute Order (docket no. 81),
4 the parties were ordered to complete court mediation by December 13, 2010;

5 WHEREAS, a motion to intervene (dkt #84) and two motions for summary judgment (dkt
6 # 85 & 86) (collectively "the Motions") were filed on October 1, 2010, set for hearing on
7 November 5, 2010, and later reset for hearing on December 10, 2010 by stipulation (dkt #96) and
8 order of the Court (dkt #97);

9 WHEREAS, the hearing on the Motions was further continued from December 10, 2010
10 to January 28, 2011, pursuant to the Court's November 24, 2010 Order (dkt # 120);

11 WHEREAS, the parties were scheduled to attend court mediation with Patrick D.
12 Robbins on December 9, 2010, but due to respective scheduling conflicts and difficulties with
13 the December 9, 2010 mediation date, have consulted with the mediator and agreed to postpone
14 the mediation to January 11, 2011, which was subsequently rescheduled to January 24, 2011;

15 WHEREAS, the parties have been engaged in settlement discussions with a non-party to
16 the litigation, outside of the mediation process, and are presently considering a resolution that, if
17 successful, could resolve this litigation as among the parties to this stipulation and is scheduled
18 to close on or before January 25, 2011;

19 WHEREAS, the parties have consulted with the mediator, who has agreed that it would
20 be beneficial to the process to allow the settlement efforts to continue outside of the mediation
21 process, and that the mediator will become involved only in the event that the current settlement
22 process cannot be successfully completed; and

23 WHEREAS, the parties have agreed to notify the Court promptly on or before January
24 26, 2011, whether the matter has been settled or of any further developments.

25 THEREFORE:

26 Based on the foregoing, the parties respectfully request that the Court continue the
27 deadline to complete mediation to February 28, 2011, and continue the date for oral argument on
28

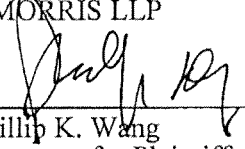
1 the pending Motions until _____, 2011 (a date to be set by the Court), unless the Court
2 determines that the matter is suitable for disposition without oral argument.

3 IT IS SO STIPULATED.

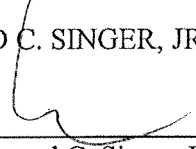
4 DATED: January 13, 2011 KASOWITZ BENSON TORRES & FRIEDMAN LLP

5
6 By: /s/ Margaret A. Ziemianek
Attorneys for Plaintiff
CAPITAL TRUST, INC.

7
8 DATED: January 13, 2011 DUANE MORRIS LLP

9
10 By: 
Phillip K. Wang
Attorneys for Plaintiffs-in-Intervention
LBUBS2004-C8 BARTLETT STREET LIMITED
11 PARTNERSHIP, LBUBS2004-C8 BAY CLAY
12 LIMITED PARTNERSHIP, LBUBS2004-C8
13 GOUGH STREET LIMITED PARTNERSHIP,
14 LBUBS2004-C8 HYDE STREET LIMITED
15 PARTNERSHIP, LBUBS2004-C8 JOICE STREET
16 LIMITED PARTNERSHIP, LBUBS2004-C8
17 JONES STREET LIMITED PARTNERSHIP,
18 LBUBS2004-C8 LOMBARD STREET LIMITED
19 PARTNERSHIP, LBUBS2004-C8 MASON
20 STREET LIMITED PARTNERSHIP, LBUBS2004-
21 C8 Van Ness Limited Partnership

22 DATED: January 13, 2011 EDWARD C. SINGER, JR.

23
24 By: 
Edward C. Singer Jr.
Attorneys for Defendants
25 WALTER R. LEMBI, individually and as trustee of
26 the WALTER AND LINDA LEMBI FAMILY
27 TRUST DATED JUNE 30, 2004 and FRANK E.
28 LEMBI, individually and as trustee of the OLGA
LEMBI RESIDUAL TRUST CREATED UNDER
THE PROVISION OF PART THREE OF THE
LEMBI FAMILY REVOCABLE TRUST DATED
FEBRUARY 17, 1984 and as the trustee of the
FRANK E. LEMBI SURVIVOR'S TRUST DATED
FEBRUARY 17, 1984

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DATED: January 3, 2011

FRIEDMAN DUMAS & SPRINGWATER LLP

By: 

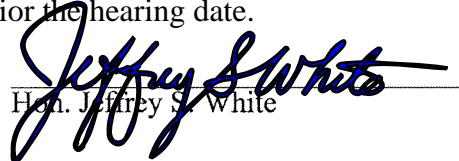
Ellen Friedman
Mary Elaine Hammond
Stefanie Ann Elkins
Attorneys for Defendants
BILLIE Z. SALEVOURIS, individually and as trustee for THE BILLIE SALEVOURIS TRUST DATED AUGUST 23, 1983 AS RESTATED ON MAY 24, 2002; DAVID M. RAYNAL, individually and as trustee for the DAVID M. RAYNAL REVOCABLE TRUST DATED MAY 9, 2002; RALPH DAYAN, individually and as co-trustee for the AMENDED AND RESTATED DAYAN FAMILY REVOCABLE TRUST DATED DECEMBER 31, 1991

[PROPOSED] ORDER

IT IS HEREBY ORDERED THAT the January 28, 2010 deadline to complete court mediation is continued to February 28, 2011, and the oral argument on the pending Motions shall be held on April 1, 2011, unless the Court orders otherwise.

IT IS SO ORDERED. The pretrial and trial dates are vacated and shall be reset if necessary after consideration of the motions. The parties shall notify the Court if this matter is resolved prior the hearing date.

Dated: January 14, 2011


Hon. Jeffrey S. White