



1 THOMAS E. FRANKOVICH (State Bar No. 074414)
 2 THOMAS E. FRANKOVICH,
 3 **A Professional Law Corporation**
 4 4328 Redwood Hwy., Suite 300
 San Rafael, CA 94903
 Telephone: 415/674-8600
 Facsimile: 415/674-9900

5 Attorneys for Plaintiff
 6 CRAIG YATES, an individual

7 UNITED STATES DISTRICT COURT
 8 NORTHERN DISTRICT OF CALIFORNIA

10 CRAIG YATES, an individual,)
 11 Plaintiff,)
 12 v.)
 13)
 14 CLEMENT RESTAURANTS, INC., a)
 California corporation; CLEMENT)
 15 INVESTMENT LLC, a limited liability)
 company; and WELLS FARGO BANK)
 16 NATIONAL ASSOCIATION TRUST,)
 17 Defendants.)

CASE NO. CV-09-3978-SI

**PLAINTIFF’S REQUEST TO REOPEN
 CASE AND [PROPOSED] ORDER
 THEREON**

18 Plaintiff, CRAIG YATES by and through his undersigned counsel, respectfully request
 19 that this Court reopen the captioned action and as grounds therefore state: The plaintiff’s counsel
 20 has sent defendant’s counsel the revisions to the language with a request to revise agreement and
 21 to circulate the Settlement Agreement to Plaintiff, plaintiffs’ counsel, defendants CLEMENT
 22 RESTAURANTS, INC., a California corporation; CLEMENT INVESTMENT LLC, a limited
 23 liability company; and WELLS FARGO BANK NATIONAL ASSOCIATION TRUST for
 24 signature’s. Defendants counsel requested to draft and execute the settlement agreement and have
 25 not circulated the Settlement Agreement which has been agreed to by all parties.

26 ///
 27 ///
 28 ///

1 **CERTIFICATE OR PROOF OF SERVICE**

2 State of California)
3 County of San Rafael) ss

4 I, the undersigned, say: I am and was at all times herein mentioned, a citizen of the United
5 States, over the age of eighteen (18) years and not a party to the within action or proceeding; that
6 my business address is 4328 Redwood Hwy, Suite 300, San Rafael, CA 94903; that on the below
7 date, following normal business practice, I served the foregoing document, described as:

8 **PLAINTIFF’S REQUEST TO REOPEN CASE AND [PROPOSED] ORDER THEREON**

9 on the interested parties in this action, conveyed as follows:

- 10 by depositing true copies thereof, enclosed in a sealed envelope, with postage thereon
11 fully prepaid:
 - 12 in first class U.S. Mail
 - 13 in ___ priority or ___ standard overnight mail via Federal Express.

14 I am readily familiar with this office’s practice for collection and processing of
15 correspondence for mailing with the United States Postal Service or Federal Express. In
16 the ordinary course of business, correspondence, including said envelope, will be
17 deposited with the United States Postal Service or Federal Express in San Rafael.

18 addressed to:

19 **Marty H. Orlick, Esq.**
20 **Jeffery, Mangers, Butler & Marmora LP**
21 **Two Embarcadero Centers, Fifth Floor**
22 **San Francisco, CA 94111-3824**

23 I declare under penalty of perjury under the laws of the State of California that I am
24 employed in the office of a member of the bar of this court at whose direction the service was
25 made, and that the foregoing is true and correct. Executed this January 21, 2011, at San Rafael,
26 California.

27 _____/S/ _____ Pepper B Maupin _____
28 Pepper B. Maupin
(Original signed)