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6 *Attorneys for Defendant*
Accretive, LLC

8 **IN THE UNITED STATES DISTRICT COURT**
 9 **NORTHERN DISTRICT OF CALIFORNIA**

11 KENYA BODDIE AND RAMONDA CARLOS,)
 individually and on behalf of others similarly)
 12 situated,)

13 Plaintiffs,)

14 v.)

15 AXIANT, LLC; ACCRETIVE, LLC; MANN)
 BRACKEN, LLP, and DOES 1 through 25,)
 16 inclusive,)

17 Defendants.)

CASE NO.: CV-09-5553 (CRB)

**STIPULATION AND ~~[PROPOSED]~~
 ORDER RE: MODIFICATION OF THE
 CASE MANAGEMENT CONFERENCE
 DATE AND DEADLINE TO FILE
 STIPULATION TO ADR PROCESS**

18 _____
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 20 WHEREAS, on November 20, 2009, Defendant Axiant, LLC (“Axiant”) filed for chapter 11
 21 bankruptcy;

22 WHEREAS, on November 23, 2009, Plaintiffs filed a complaint against Axiant alleging that
 23 Axiant violated the Worker Adjustment and Retraining Notification Act (the “WARN Act”);

24 WHEREAS, on November 23, 2009, the Court ordered that a case management conference
 25 in this matter be held on March 5, 2010, at 8:30 a.m.;

26 WHEREAS, on December 7, 2009, Plaintiffs filed an amended complaint naming Accretive,
 27 LLC (“Accretive”) and Mann Bracken, LLP (“Mann Bracken”) as defendants and seeking to hold

1 them liable for the lack of WARN Act notice provided by the original defendant and Chapter 11
2 Debtor, Axiant;

3 WHEREAS, in January of 2010, Birgit Stuart, counsel for Mann Bracken, telephonically
4 informed counsel for Accretive that Mann Bracken was contemplating filing for bankruptcy
5 protection by months-end;

6 WHEREAS, other media sources have also reported that Mann Bracken is likely to wind
7 down its operations and file for bankruptcy;

8 WHEREAS, on January 29, 2010 Accretive filed a motion to dismiss Plaintiffs' complaint
9 and a hearing date of March 19, 2010 has been set for argument on Accretive's motion to dismiss;

10 WHEREAS, on February 12, 2010, Birgit Stuart sent an e-mail to counsel for Plaintiffs and
11 counsel for Accretive informing them that she had been terminated by Mann Bracken effective
12 February 9, 2010 and that she would file a motion to withdraw;

13 WHEREAS, on February 23, 2010, Birgit Stuart filed with this Court a notice of termination
14 of representation;

15 WHEREAS, on February 24, 2010, Birgit Stuart filed with this Court a letter from Mann
16 Bracken indicating that Mann Bracken has ceased operations and will be in a Chapter 7 bankruptcy
17 proceeding as soon as its bankruptcy counsel completes preparation of the relevant documents;

18 WHEREAS, it appears unlikely that Mann Bracken will participate in the creation of a Case
19 Management Statement or in the Case Management Conference that is scheduled for March 5, 2010;

20 WHEREAS, neither Accretive nor Plaintiffs are aware of Mann Bracken having filed a
21 bankruptcy petition;

22 WHEREAS, whether Mann Bracken files for bankruptcy will have a substantial effect on the
23 ADR options elected as well as the nature and extent of the disclosures, discovery and motions that
24 are sought and filed in this litigation by Accretive and Plaintiffs;

25 WHEREAS, Accretive and Plaintiffs have conferred and agree that, in light of the
26 uncertainty concerning whether Mann Bracken will file for bankruptcy, it would be most efficient
27 and equitable to adjourn the case management conference pending further clarification of Mann
28

1 Bracken's status and the continued role of Mann Bracken's counsel with respect to this litigation;

2 WHEREAS, Accretive and Plaintiffs have conferred and agree that it would be premature
3 and not otherwise fruitful to engage in an ADR process prior to this Court ruling on Accretive's
4 motion to dismiss; and

5 WHEREAS, Accretive and Plaintiffs agree to submit a Case Management Statement by
6 March 5, 2010 that will be supplemented as necessary according to Mann Bracken's participation in
7 the case.

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9 **IT IS HEREBY STIPULATED** by the parties, by and through their undersigned counsel,
10 that:

- 11 (1) The case management conference previously scheduled for March 5, 2010, at
12 8:30 a.m., is adjourned to April 9, 2010, at 8:30 a.m.
- 13 (2) Plaintiffs and Accretive will file a Joint Case Management Statement with this
14 Court by March 5, 2010.
- 15 (3) The deadline to file a Stipulation to ADR Process or Notice of Need for ADR
16 Phone Conference, is adjourned to April 9, 2010.
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Dated: February 24, 2010

DEWEY & LEBOEUF LLP

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Dated: February 24, 2010

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Attorneys for Plaintiffs Kenya Boddie and Ramonda Carlos

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: Feb. 25, 2010

