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13 ***Attorneys for Plaintiff and the Class***

14 UNITED STATES DISTRICT COURT

15 NORTHERN DISTRICT OF CALIFORNIA

17 JAMES THOMAS, on behalf of himself and all  
 those similarly situated,

18 Plaintiff,

19 v.

20 ROBERT N. DEBENEDICTIS, *et al.*

21 Defendants.

Case No. C09-05664 MHP

Class Action

**STIPULATION AND ~~[PROPOSED]~~ ORDER  
 RE: INITIAL CASE MANAGEMENT  
 CONFERENCES**

**STIPULATION**

1  
2 WHEREAS, defendants filed their notice of removal of the above-entitled action on  
3 December 2, 2009;

4 WHEREAS, the Court has also scheduled an initial case management conference for March  
5 8, 2010 at 4:00 p.m. and an initial case management scheduling conference for March 15, 2010 at  
6 4:00 p.m.;

7 WHEREAS, defendants Robert N. DeBenedictis, The Robert N. DeBenedictis Foundation,  
8 Gina Harrison, Susan Martino, Maryetta Sunni Prekup, Julie Martino, Avacor Products, LLC, East  
9 Side Club, LLC, 230 E. 58<sup>th</sup> Associates, LLC, Sunchaser Properties, LLC, 9<sup>th</sup> Avenue Wilton  
10 Manors, LLC, B&B Realty Development, LLC, Hanford and Henderson, LLC, 234 Townhouse,  
11 LLC, West Side Club, LLC, River Street Club, LLC, CND Properties, LLC, Blue Lagoon Motel,  
12 LLC, 3016 Windamar, LLC, 227 E. 56<sup>th</sup> Company, LLC, 835 River Bend, LLC, 1215 LLC, 511-  
13 404, LLC, 511-405, LLC, 505 Orton, LLC, 533 Orton, LLC, 543 Breakers, LLC, 717 Breakers,  
14 LLC, 528 Antioch, LLC, 2909 Vistamar, LLC, 710 N. Birch, LLC, 1164 Associates, LLC,  
15 Hollywood Acquisitions, LLC and Lorelei Property Management, LLC filed a Motion to Dismiss  
16 for Lack of Personal Jurisdiction and Alternative Motion to Dismiss or Transfer Venue (the  
17 “Motion to Dismiss”) on December 9, 2009;

18 WHEREAS, at a hearing on January 28, 2010, the Court agreed to allow plaintiff to take  
19 jurisdictional discovery in connection with the Motion to Dismiss;

20 WHEREAS, the depositions, limited to jurisdictional issues, are scheduled to begin on  
21 March 3;

22 WHEREAS, the Court has ordered the parties to submit supplemental briefing to the Court  
23 on the Motion to Dismiss following the completion of the jurisdictional discovery;

24 WHEREAS, the parties intend to obtain a new hearing date for the Motion to Dismiss  
25 following the completion of the jurisdictional discovery;

26 WHEREAS, the parties have agreed to a mediation before Judge Nicholas Politan (Ret.) on  
27 March 15, 2010; and  
28

1 WHEREAS, the parties believe that the initial case management conferences should be  
2 postponed until after the Court rules on the Motion to Dismiss;

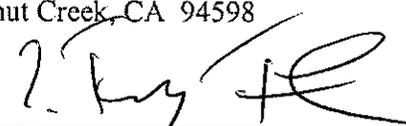
3 NOW THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by plaintiff James  
4 Thomas and defendants as follows:

5 1. The case management conferences scheduled for March 8, 2010 at 4:00 p.m. and  
6 March 15, 2010 shall be postponed until after the Court rules on the Motion to Dismiss.

7 2. Defendants Paul Gallucio, 543 Breakers, LLC- Windamar Beach Resort, 533 Orton,  
8 LLC- Windamar Beach Club, 505 Orton, LLC- Rainbow Beach Resort, 1215, LLC- Rooftop  
9 Beach House Hotel, Lorelei Property management Group, LLC- Lorelei Motel will file their  
10 motion to dismiss for lack of personal jurisdiction on March 18, 2010.

11 Dated: March 1, 2010

12 BRAMSON, PLUTZIK, MAHLER & BIRKHAUSER, LLP  
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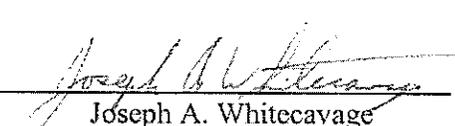
17 By: 

L. Timothy Fisher

Counsel for Plaintiff James Thomas

18 Dated: March 1, 2010

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20 Peter M. Hart (State Bar No. 107920)  
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25 By: 

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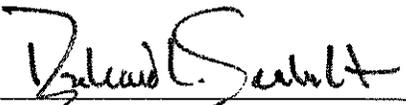
26 Counsel for Defendants Robert N. BeBenedictis, The Robert  
27 N. DeBenedictis Foundation, Gina Harrison, Susan Martino,  
28 Maryetta Sunni Prekup, Julie Martino, Avacor Products,  
LLC, East Side Club, LLC, 230 E. 58<sup>th</sup> Associates, LLC,  
Sunchaser Properties, LLC, 9<sup>th</sup> Avenue Wilton Manors, LLC,  
B&B Realty Development, LLC, Hanford and Henderson,  
LLC, 234 Townhouse, LLC, West Side Club, LLC, River

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Street Club, LLC, CND Properties, LLC, Blue Lagoon Motel, LLC, 3016 Windamar, LLC, 227 E. 56<sup>th</sup> Company, LLC, 835 River Bend, LLC, 1215 LLC, 511-404, LLC, 511-405, LLC, 505 Orton, LLC, 533 Orton, LLC, 543 Breakers, LLC, 717 Breakers, LLC, 528 Antioch, LLC, 2909 Vistamar, LLC, 710 N. Birch, LLC, 1164 Associates, LLC, Hollywood Acquisitions, LLC and Lorelei Property Management

Dated: March 1, 2010

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By:   
Richard L. Seabolt

Counsel for Defendants Paul Gallucio, 543 Breakers, LLC - Windamar Beach Resort, 533 Orton, LLC - Windamar Beach Club, 505 Orton, LLC - Rainbow Beach Resort, 1215, LLC - Rooftop Beach House Hotel, Lorelei Property Management Group, LLC - Lorelei Motel

**Attestation Pursuant To General Order 45**

I, L. Timothy Fisher, attest that concurrence in the filing of this document has been obtained from the other signatories. I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed this 25th day of February, 2010 at Walnut Creek, California.

\_\_\_\_\_  
/s/ L. Timothy Fisher

\* \* \* \* \*

**ORDER**

Pursuant to the parties' stipulation, IT IS SO ORDERED.

Dated: 3/2/2010

\_\_\_\_\_  
THE HONORABLE MARILYN H. PATEL  
UNITED STATES DISTRICT COURT

