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5 *Attorneys for Plaintiff*
6 **CATAPHORA, INC.**

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11 *Attorneys for Defendants*

12 **UNITED STATES DISTRICT COURT FOR THE**
13 **NORTHERN DISTRICT OF CALIFORNIA**

14 **CATAPHORA, INC., a California corporation,**

15 **Plaintiff,**

16 **v.**

17 **JERROLD SETH PARKER, an individual;**
18 **DAWN M. BARRIOS, an individual;**
19 **VICTOR MANUEL DIAZ, an individual;**
20 **BEN GORDON, an individual;**
21 **DANIEL E. BECNEL, JR., an individual;**
22 **ERVIN AMANDA GONZALEZ, an individual;**
23 **HUGH P. LAMBERT, an individual;**
24 **ARNOLD LEVIN, an individual;**
25 **CHRISTOPHER SEEGER, an individual;**
26 **SCOTT WEINSTEIN, an individual;**
27 **GERALD E. MEUNIER, an individual;**
28 **JAMES ROBERT REEVES, an individual;**
BRUCE WILLIAM STECKLER, an Individual;
RUSS M. HERMAN, an Individual;
LEONARD DAVIS, an individual;
and DOES 1 - 50, inclusive,

Defendants.

CASE NO. CV-09-5749 BZ

STIPULATION AND
~~**[PROPOSED]**~~ **ORDER DIRECTING**
COURT CLERK TO RELEASE FUNDS
DEPOSITED WITH COURT
REGISTRY

Date: N/A
Time: N/A
Dept.: N/A
Judge: To Be Assigned

1 Plaintiff Cataphora, Inc. (“Cataphora”) and Defendants Jerrold Seth Parker, Dawn M.
2 Barrios, Victor Manuel Diaz, Ben Gordon, Daniel E. Becnel, Jr., Ervin Amanda Gonzalez, Hugh
3 P. Lambert, Arnold Levin, Christopher Seeger, Scott Weinstein, Gerald E. Meunier, James
4 Robert Reeves, Bruce William Steckler and Russ M. Herman and each of them (“Defendants”),
5 by and thorough their counsel of record, do hereby stipulate and agree as follows:

6 WHEREAS, on December 8, 2009, Cataphora filed the above-captioned breach of
7 contract action against the Defendants in the above-entitled court (Docket No.1);

8 WHEREAS, on September 19, 2011, a jury issued a Special Verdict and the court
9 entered a Judgment in a Civil Case Following Jury Verdict awarding Cataphora \$317,113 in
10 damages against the Defendants (Docket Nos. 247 and 249) and on January 6, 2012, the court
11 entered an amended judgment awarding Cataphora \$317,113 in damages against the Defendants
12 (Docket No. 319). In addition, the court awarded Cataphora \$865,642.66 in attorney’s fees and
13 costs against the Defendants (Docket Nos. 314, 315, 334, 346 and 352);

14 WHEREAS, the Defendants timely appealed the jury verdict, judgment, amended
15 judgment and fee and cost awards and Cataphora timely cross-appealed the court’s denial of
16 Cataphora’s motion for summary judgment and other adverse rulings to the United States Court
17 of Appeals for the Ninth Circuit (Appeal Nos. 12-15072, 12-15149, 12-15567 and 12-15602)
18 (the “Appeals”);

19 WHEREAS, in connection with the Appeals on January 11, 2012, the court issued an
20 order granting the Defendants’ request for approval to post a cash supersedeas bond in order to
21 stay execution on the amended judgment and award of damages and attorney’s fees and costs,
22 upon the PSC Members depositing funds in the amount of \$1,335,967.20 into the Court’s
23 registry (Docket No. 330)(the “Bond Order”);

24 WHEREAS, pursuant to the Bond Order on January 13, 2012, the Defendants deposited a
25 cash supersedeas bond in the amount of \$1,335,967.20 with the Clerk of the District Court which
26 issued a receipt for same (Docket No. 335);
27

1 WHEREAS, the Parties have agreed to resolve this litigation and dismiss the Appeals on
2 the terms set forth below;

3 NOW THEREFORE, in consideration of the foregoing recitals, which are incorporated
4 into this Agreement by this reference, and for good and valuable consideration, the Parties hereto
5 agree and stipulate as follows:

6 1. The Court shall enter this Stipulation as an Order directing the Clerk of the Court
7 to issue a check in the amount of \$1,015,000, made payable to the William Webb
8 Farrer Client Trust Account, from the funds that the Defendants deposited with
9 the court pursuant to the Bond Order in full satisfaction of the District Court's
10 amended judgment and award of damages and attorney's fees and costs in favor
11 of Cataphora and to deliver that check to the Law Offices of William Webb
12 Farrer, 100 Smith Ranch Road, Suite 107, San Rafael, CA. 94903. The Order
13 shall also authorize the Clerk of the District Court to issue and deliver to the PSC
14 Members the remaining funds on deposit with Clerk of the District Court that
15 exceeds the settlement proceeds of \$1,015,000.00, in the form of a check made
16 payable to "MDL 2047 In Re Chinese Drywall Litigation," which check shall be
17 delivered to Counsel for the PSC Members, Frank M. Pitre, Cotchett, Pitre &
18 McCarthy, LLP, San Francisco Airport Office Ctr, 840 Malcolm Road, Suite 200,
19 Burlingame, CA 94010.

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2. The Court shall also direct the Clerk of the Court to note on the docket that the amended judgment and award of damages and attorneys' fees and costs has been satisfied in full and that the matter may be dismissed.

Dated: January 22, 2014

LAW OFFICES OF WILLIAM WEBB FARRER

By: /s/ William Webb Farrer
WILLIAM WEBB FARRER
Attorney For Plaintiff Cataphora, Inc.

COTCHETT, PITRE & McCARTHY, LLP

By: /s/ Frank M. Pitre
FRANK M. PITRE
Attorneys for Defendants Jerrold Seth Parker, Dawn M. Barrios, Victor Manuel Diaz, Ben Gordon, Daniel E. Becnel, Jr., Ervin Amanda Gonzalez, Hugh P. Lambert, Arnold Levin, Christopher Seeger, Scott Weinstein, Gerald E. Meunier, James Robert Reeves, Bruce William Steckler and Russ M. Herman

PURSUANT TO STIPULATION,

IT IS SO ORDERED.

DATE: 1/23/14



JUDGE, UNITED STATES DISTRICT COURT