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11
 12 **UNITED STATES DISTRICT COURT**
 13 **NORTHERN DISTRICT OF CALIFORNIA**
 14

15 FLORISTS' TRANSWORLD DELIVERY,
 INC.

16 Plaintiff,

17 v.

18 DANIEL CISNEROS

19 Defendant.

Case No: 3:09-MC80269 SI

[Underlying Case No. 1:09-CV-05934
 Action pending in Northern District of
 Illinois]

20 **STIPULATION TO CONTINUE CASE**
MANAGEMENT CONFERENCE
(INCLUDING STATUS REPORT)

Date: August 4, 2010
 Time: 2:00 p.m.

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 24 This Request for continuance is submitted in accordance with the Notice setting a case
 25 management conference in this matter on August 4, 2010.

26 This matter arises out of subpoena duces tecum issued in connection with a case pending
 27 in the Northern District of Illinois ("the Underlying Action"). The subpoena duces tecum was
 28 directed to Yahoo! Inc. ("Yahoo!") by Plaintiff Florists Transworld Delivery, Inc. ("FTD"). The

1 subpoena sought, among other things, electronic communications relating to non-party Roger
2 Cohen's ("Cohen") Yahoo! email account relating to the Underlying Action. Cohen filed a
3 motion to quash the subpoena.

4 A subpoena duces tecum was also served directly on Cohen in the underlying action.
5 Cohen agreed to submit to the jurisdiction of Judge Rebecca Pallmeyer for the purpose of having
6 discovery disputes in the underlying action resolved.

7 Because Cohen and FTD anticipated that the discovery disputes might be resolved in
8 connection with the subpoena in the underlying action, the parties stipulated to a stay of Cohen's
9 motion to quash the subpoena to Yahoo!

10 Since the motion to quash was stayed, there has been significant activity by the parties in
11 the Underlying Action, including, an agreement and protocol for forensic examining firm, Kroll
12 OnTrack, to conduct a forensic examination of Cohen's work computer, certain discovery, and
13 additional hearings before the N.D. Illinois. The case was then referred to a Magistrate for
14 settlement proceedings. Prior to the settlement conference there was a re-assignment of the
15 Magistrate which resulted in a continuance of that hearing. Pending efforts to settle this matter,
16 the parties deferred additional discovery in the underlying action relating to Cohen's personal
17 emails.

18 Defendant, Daniel Cisnero's counsel moved to withdraw from the case and a motion was
19 heard on that today. The Court denied the motion pending a previously scheduled deposition of
20 Mr. Cisneros' wife, but indicated the motion would be granted thereafter. In addition, the N.D.
21 Illinois Magistrate Judge today issued an order for a further status conference on August 17,
22 2010 (see attached ECF notice). In view of the proceedings in the underlying Illinois action,
23 Cohen and FTD respectfully request that this matter be continued for a minimum of an additional
24 60 days; preferably 90 days.

25 A proposed order is being submitted herewith.
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