

E-Filed 5/25/11

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 PHILIP TRI NGUYEN, individually
 and dba MANGOSTEEN
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8
 9 IN THE UNITED STATES DISTRICT COURT
 10 FOR THE NORTHERN DISTRICT OF CALIFORNIA

11	CRAIG YATES, an individual,)	Case No. 3:10-CV-03747-RS
)	
12	Plaintiff,)	
)	STIPULATION AND [PROPOSED]
13	vs.)	ORDER FOR LEAVE TO FILE FIRST
)	AMENDED COMPLAINT
14	MANGOSTEEN; CITI PROPERTIES DE)	
	LLC, a Delaware Limited Liability)	
15	Company; and PHILIP TRI NGUYEN, an)	
	individual dba MANGOSTEEN,)	Complaint Filed: August 23, 2010
16)	Trial Date: None
	Defendants.)	
17)	

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 19 Plaintiff CRAIG YATES (“plaintiff”), an individual, and defendant Philip Tri Nguyen, an
 20 individual dba MANGOSTEEN (“defendant”), by and through their respective counsel of
 21 record, hereby request and make the following stipulation:

22 1. Whereas, plaintiff, having not received a responsive pleading from defendant CITI
 23 PROPERTIES DE LLC, a Delaware limited liability company (“CITI PROPERTIES”), and
 24 having not received any communication in response to inquiries made by plaintiff’s counsel to
 25 counsel for defendant CITI PROPERTIES concerning defendant’s answer;

26 2. Whereas, plaintiff subsequently investigated and discovered that the ownership
 27 interest once held by defendant CITI PROPERTIES in 601 Larkin Street, San Francisco, CA
 28 94109 (the property where the Mangosteem Restaurant is located) had been judicially foreclosed

1 by the San Francisco Superior Court in the matter of *WBCMT 2007-C31 Buchanan Street, Ltd. v.*
2 *Ritz Apartments DE, LLC, et al.*, (S.F. Superior Court Case No. CGC-09-488876) in favor of
3 plaintiff WBCMT 2007-C31 Buchanan Street, Ltd.;

4 3. Whereas, the judicial foreclosure proceeding transferred title and ownership interest
5 in the property located at 601 Larkin Street from defendant CITI PROPERTIES to WBCMT
6 2007-C31 Buchanan Street, Ltd.;

7 4. Whereas, plaintiff seeks to prosecute his action against the owner of the Mangosteen
8 Restaurant and the owner of the property located at 601 Larkin Street;

9 5. Whereas, defendant Philip Tri Nguyen, an individual dba MANGOSTEEN,
10 previously filed an answer to plaintiff's complaint on November 15, 2010;

11 **IT IS SO STIPULATED:**

12 That plaintiff may file a First Amended Complaint to name WBCMT 2007-C31
13 Buchanan Street, Ltd. as a defendant and that the answer previously filed by defendant Philip Tri
14 Nguyen, an individual dba MANGOSTEEN, on November 15, 2010 may serve as defendant's
15 answer to the First Amended Complaint.

16 Respectfully submitted,

17 Dated: May 20, 2011

THOMAS E. FRANKOVICH,
A PROFESSIONAL LAW CORPORATION

18
19 */s/ Thomas E. Frankovich*

20 By: _____
21 Thomas E. Frankovich
22 Attorneys for Plaintiff CRAIG YATES, an
23 individual

24 Dated: May 20, 2011

LIVINGSTON LAW FIRM

25
26 */s/ Jason G. Gong*


27 By: _____
28 Jason G. Gong
Attorneys for Defendant Philip Tri Nguyen,
an individual dba MANGOSTEEN

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ORDER

IT IS HEREBY ORDERED that plaintiff CRAIG YATES, an individual, may file a First Amended Complaint in this matter and that the answer previously filed by defendant Philip Tri Nguyen, an individual dba MANGOSTEEN, on November 15, 2010 may serve as defendant's answer to the First Amended Complaint.

DATED: May 24, 2011



Honorable Richard Seeborg
UNITED STATES DISTRICT JUDGE