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 DAREN HEATHERLY and IRMA RAMIREZ

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 8 UNITED STATES DISTRICT COURT
 9 NORTHERN DISTRICT OF CALIFORNIA
 10 SAN FRANCISCO DIVISION

12 DAREN HEATHERLY and IRMA RAMIREZ,
 13 Plaintiffs,

Case No.: CV 11-1069 MEJ
 Unlimited Civil Matter

14 v.

15 MARISCO'S LA JAIBA; XU TRUONG and
 AHN HOANG, TRUSTEES OF THE
 16 TRUONG/HOANG FAMILY TRUST, U.D.T.
 dated March 18, 1997; and MIGUEL PELAYO
 17 MONTIEL, an individual dba MARISCO'S LA
 JAIBA,

**FIFTH STIPULATION EXTENDING
 TIME FOR DEFENDANT XU TRUONG
 and ANH HOANG, TRUSTEES OF THE
 TRUONG/HOANG FAMILY TRUST TO
 RESPOND TO PLAINTIFFS'
 COMPLAINT AND EXTENDING DATES
 IN SCHEDULING ORDER; AND
 [PROPOSED] ORDER THEREON**

18 Defendants.
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20 Plaintiffs DARREN HEATHERLY AND IRMA RAMIREZ (hereinafter "Plaintiffs") and
 21 Defendants MARISCO'S LA JAIBA (hereinafter "Marisco's"); XU TRUONG and ANH HOANG
 22 (erroneously sued herein as AHN HOANG), TRUSTEES OF THE TRUONG/HOANG FAMILY
 23 TRUST, U.D.T. dated March 18, 1997 (hereinafter "Defendant Truong"); and MIGUEL PELAYO
 24 MONTIEL, an individual dba MARISCO'S LA JAIBA (hereinafter "Montiel"), by and through their
 25 respective counsel, respectfully request to make the following stipulation:

- 26 1. WHEREAS, all Defendants have been served with the Summons and Complaint; and
 27 2. WHEREAS, Defendants Marisco's and Montiel have filed an Answer to the
 28 Complaint; and

1 3. WHEREAS, the Court has entered four prior Orders extending the dates in the
2 Scheduling Order based on Stipulations agreed to by the parties.

3 4. WHEREAS, the Court's most recent order of July 29, 2011 extended the date in the
4 Scheduling Order as follows:

5 Defendant Truong's response to the Complaint due August 11, 2011.

6 Parties to complete Initial Disclosures by August 12, 2011.

7 Parties to hold a joint inspection of the premises by August 19, 2011

8 Parties to meet and confer in person to discuss settlement by August 29, 2011.

9 Parties to file "Notice of Need for Mediation" by October 4, 2011.

10 5. WHEREAS, on July 5, 2011, Defendant Truong made a written settlement offer to
11 Plaintiffs.

12 6. WHEREAS, on July 20, 2011, Plaintiffs made a written counteroffer for settlement to
13 Defendant Truong.

14 7. WHEREAS, on July 26, 2011, Defendant Truong replied with another offer of
15 settlement.

16 8. WHEREAS, Defendant Truong and Plaintiffs continue to actively attempt to negotiate
17 a settlement in the above-referenced case, and wish to reduce fees, costs and litigation expenses in
18 doing so.

19 9. WHEREAS, the parties believe it would be in the interests of efficiency and economy
20 to extend the time for Defendant Truong to respond to Plaintiff's Complaint and to further extend for
21 30 days or until the next business day if the date falls on a Saturday, Sunday or Court holiday, the
22 dates in the July 29, 2011 Order.

23 IT IS STIPULATED that:

24 1. Defendant Truong will have up to and including September 12, 2011 to respond to the
25 Complaint;

26 2. The parties will complete initial disclosures by September 12, 2011;

27 3. The parties will hold a joint inspection of the premises by September 19, 2011;

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1 4. The last day for the parties to meet and confer in person to discuss settlement is
2 September 29, 2011;

3 5. The last day for Plaintiffs to file "Notice of Need for Mediation" is November 4, 2011.
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5 DATED: August 11, 2011

THOMAS E. FRANKOVICH,
A Professional Law Corporation
Attorneys for Plaintiffs
DAREN HEATHERLY and IRMA RAMIREZ

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8 By: /s/ Thomas E. Frankovich
 Thomas E. Frankovich

9 DATED: August 11, 2011

AARON & WILSON, LLP
Attorneys for Defendants
MARISCO'S LA JAIBA; MIGUEL PELAYO
MONTIEL, an individual dba MARISCO'S LA
JAIBA

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13 By: /s/ Robert S. Aaron
 Robert S. Aaron

14 DATED: August 11, 2011

HATCHER & RUNDEL
Attorneys for Defendants
MARISCO'S LA JAIBA; MIGUEL PELAYO
MONTIEL, an individual dba MARISCO'S LA
JAIBA

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17 By: /s/ William W. Hatcher, Jr.
 William W. Hatcher, Jr.

18
19 DATED: August 11, 2011

20 SPAULDING McCULLOUGH & TANSIL LLP
Attorneys for Defendants
XU TRUONG and ANH HOANG, Trustees of the
TRUONG/HOANG FAMILY TRUST, U.D.T. dated
21 March 18, 1997 (erroneously sued herein as AHN
22 HOANG)

23 By: /s/ Mary P. Derner
 Mary P. Derner

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25
26 **ORDER**

27 IT IS SO ORDERED that Defendant Truong will have up to and including September 12,
28 2011 to respond to the Complaint.

1 IT IS FURTHER ORDERED that the parties will complete initial disclosures by
2 September 12, 2011;

3 IT IS FURTHER ORDERED that the parties will hold a joint inspection of the premises by
4 September 19, 2011.

5 IT IS FURTHER ORDERED that the last day for the parties to meet and confer in person to
6 discuss settlement is September 29, 2011;

7 IT IS FURTHER ORDERED that the last day for Plaintiffs to file "Notice of Need for
8 Mediation" is November 4, 2011.

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10 Dated: August 11, 2011



11 THE HONORABLE MARIA-ELENA JAMES
12 United States Magistrate Judge
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