

1 TRIAL & TECHNOLOGY LAW GROUP
 2 A PROFESSIONAL CORPORATION
 3 ROBERT A. SPANNER SBN 60308
 4 3723 HAVEN AVENUE, SUITE 132
 5 MENLO PARK, CA 94025
 6 PHONE: (650) 324-2277
 7 FAX: (650) 324-0178
 8 email - ras@techtriallaw.com

Attorney for Plaintiff

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

11 HENRY A. KLYCE and CAROLE M.
 12 KLYCE,
 13 Plaintiffs,
 14 v.
 15 JOHN WHEELER, et al.,
 16 Defendants.

) Case No.: 11-cv-02248 WHA (BZ)

) **JOINT STIPULATION AND ORDER**
) **REGARDING BRIEFING AND**
) **ARGUMENT FOR DEFENDANTS'**
) **MOTION TO DISMISS**
) **PLAINTIFFS' FIRST AMENDED**
) **COMPLAINT**

17 WHEREAS on November 1, 2011 Defendants filed a Motion to Dismiss the instant
 18 action (Docket No. 47) which is presently scheduled for hearing on December 15, 2011;

19 WHEREAS there has been only one extension of time in this case, for about one week -
 20 of the Case Management Conference;

21 WHEREAS pursuant to the Local Rules of this Court, Plaintiffs' opposition to
 22 Defendants' Motion to Dismiss is presently due on November 14, 2011 and Defendants' reply is
 23 due on November 21, 2011;

24 WHEREAS Plaintiffs' counsel must prepare and file a motion to quash a subpoena in a
 25 Digital Millennium Copyright Act case pending in this District in another matter on the same
 26 date Plaintiffs' opposition is due in this case;

1 WHEREAS a settlement conference is scheduled in this case on November 17, 2011
2 before Magistrate Judge Bernard Zimmerman, and each party must file two settlement
3 conference memoranda on November 10, 2011, and Plaintiff's counsel has been unable to
4 prepare these memoranda ahead of time because they have been awaiting a forensic inspection of
5 the Defendants' computers;

7 WHEREAS Plaintiff's counsel is preparing a memorandum rebutting the proposition that
8 one of the Defendants is entitled to assert the privilege against self-incrimination on account of
9 the act-of-production doctrine for filing by November 7, 2011; and
10

11 WHEREAS the parties also must prepare their respective clients for the upcoming
12 settlement conference;

13 WHEREAS, having agreed to extend the briefing schedule on the Motion, the parties also
14 wish to continue the hearing on the Motion to give the Court adequate time to consider the
15 Motion and to avoid a hearing during the final week of December.
16

17 **IT IS HEREBY STIPULATED BY AND BETWEEN THE PARTIES THAT:**

18 The schedule to brief and argue Defendants' Joint Motion To Dismiss Plaintiffs' First
19 Amended Complaint Pursuant To Fed. R. Civ. P. 12(b)(6) (Docket No. 47 (the "Motion")) shall
20 be amended, as follows:
21

- 22 1. Plaintiffs' opposition to Defendants' Motion shall be due on November 21, 2011;
- 23 2. Defendants' reply to Plaintiffs' opposition shall be due on December 5, 2011; and
- 24 3. The date for hearing on Defendants' Motion shall be continued from December
25
26
27
28

1 15, 2011 to January 5, 2012, or such later date as the Court shall prescribe.

2 Dated November 7, 2011.

3 By: /s/ Robert A. Spanner
4 ROBERT A. SPANNER (SBN 60308)
5 Email: ras@techtriallaw.com
6 3723 Haven Avenue, Suite 132
7 Menlo Park, CA 94025
8 Tel: (650) 324-2277
9 Fax: (650) 324-0178
10 Attorneys for Plaintiffs
11 HENRY A. KLYCE and CAROLE M. KLYCE


12 By: /s/ Benjamin A. Costa
13 CHRIS K. RIDDER (SBN 218691)
14 Email: chris@rcjlawgroup.com
15 BENJAMIN A. COSTA (SBN 245953)
16 Email: ben@rcjlawgroup.com
17 RIDDER, COSTA & JOHNSTONE LLP
18 12 Geary Street, Suite 701
19 San Francisco, CA 94108
20 Tel: (415) 391-3311
21 Fax: (415) 358-4975
22 Attorneys for Defendant ELLEN KLYCE

23 By: /s/ Andrew B. Kreeft
24 ANDREW B. KREEFT (SBN 126673)
25 Email: aKreeft@brklegal.com
26 BOHNEN, ROSENTHAL & KREEFT
27 787 Munras Avenue, Suite 200
28 P.O. Box 1111
Monterey, CA 93942
Tel: (831) 649-5551
Fax: (831) 649-0272
Attorneys for Defendants KATHERINE
KLYCE and ESTATE OF JOHN WHEELER

ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: November 7, 2011.



William Alsup
UNITED STATES DISTRICT JUDGE