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11 Attorneys for Nominal Defendant
 12 OCLARO, INC.

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

15 TOBY AGUILAR, derivatively on behalf of
 16 OCLARO, INC.,

17 Plaintiff,

18 v.

19 BERNARD COULLAUD, GREG DOUGHERTY,
 20 EDWARD COLLINS, LORI HOLLAND,
 GIOVANNI BARBAROSSA, ALAIN COUDER,
 21 JOEL A. SMITH III, JERRY TURIN, and JAMES
 HAYNES,

22
 23
 24 Defendants.

25 and

26 OCLARO, INC.,

27 Nominal Defendant.

Case No. 11-CV-3668-EMC

(Derivative Action)

**STIPULATION AND [PROPOSED]
 ORDER DISMISSING AGUILAR V.
 COULLAUD WITHOUT PREJUDICE
 AND WITHOUT COSTS TO ANY
 PARTY**

1 WHEREAS, on July 26, 2011, plaintiff Toby Aguilar commenced a derivative action against
2 nominal defendant Oclaro, Inc. (“Oclaro”), and defendants Alain Couder, Jerry Turin, James
3 Haynes, Bernard Couillaud, Giovanni Barbarossa, Edward Collins, Greg Dougherty, Lori Holland,
4 and Joel A. Smith III;

5 WHEREAS, on September 8, 2011, plaintiff served Oclaro, but has not served the other
6 defendants;

7 WHEREAS, on September 14, 2011, this Court denied the motion to consolidate Aguilar’s
8 action into *In re Oclaro, Inc. Derivative Litigation*, Lead Case No. 11-CV-3176, without prejudice;

9 WHEREAS, the parties have met and conferred regarding dismissal of Aguilar’s action;

10 WHEREAS, none of the defendants has provided or promised anything of value to plaintiff
11 or plaintiff’s counsel as an inducement to dismiss this action; and

12 WHEREAS, the parties concur that notice to Oclaro shareholders is not required since *In re*
13 *Oclaro Derivative Litigation* has not been dismissed;

14 NOW THEREFORE, plaintiff and Oclaro, by and through their undersigned counsel, hereby
15 stipulate as follows:

16 *Aguilar v. Couillaud*, No. 11-CV-3668-EMC (N.D. Cal. filed July 26, 2011), is hereby
17 dismissed without prejudice and without costs to any party.

18
19 **ALSTON & BIRD LLP**

20
21 DATED: Menlo Park, California
22 September 26, 2011

23 By: s/ Gidon M. Caine
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Counsel for Nominal Defendant Oclaro, Inc.

FINKELSTEIN THOMPSON LLP

DATED: San Francisco, California
September 26, 2011

By: s/ Mark Punzalan
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Counsel for Plaintiff Toby Aguilar

[PROPOSED] ORDER

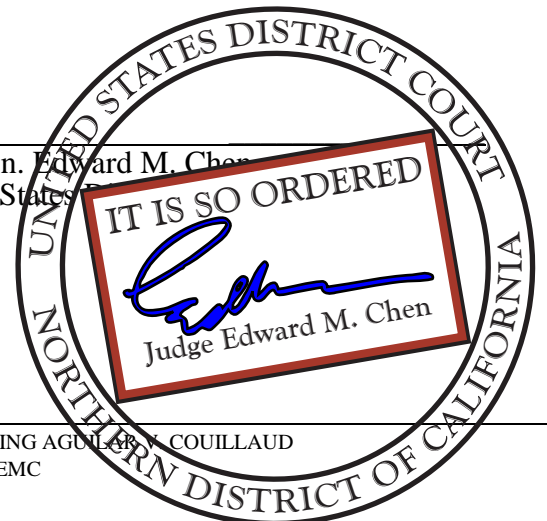
UPON STIPULATION OF THE PARTIES, AND FOR GOOD CAUSE SHOWN, IT IS
HEREBY ORDERED THAT:

1. *Aguilar v. Couillaud*, No. 11-CV-3668-EMC (N.D. Cal. filed July 26, 2011) is hereby dismissed without prejudice and without costs to any party.
2. The parties need not provide notice of this dismissal to Oclaro, Inc.'s shareholders.
3. The clerk is directed to enter the dismissal of this action forthwith.

IT IS SO ORDERED.

DATED: San Francisco, California
~~September~~ 2011
October 5, 2011

The Hon. Edward M. Chen
United States



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I, Gidon M. Caine, am the ECF User whose ID and password are being used to file this Joint Case Management Statement. In compliance with General Order No. 45, X.B., I hereby attest that Mark Punzalan has concurred in this filing.

s/ Gidon M. Caine
GIDON M. CAINE