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14 Defendant in Pro Per

15 Michael Mason
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16 Lebanon, NH 03756

17 Defendant in Pro Per

18 **UNITED STATES DISTRICT COURT**
19 **NORTHERN DISTRICT OF CALIFORNIA**

20 WESTERN DIRECTORIES, INC.

Case No. CV 09-01625 CW (EDL)

21 Plaintiff,

22 vs.

23 GOLDEN GUIDE DIRECTORIES, INC.,
WEST COAST YELLOW PAGES, INC.,
24 KEVIN TISDALE, MIKE MASON, and TROY
OTUS,

25 Defendants.
26
27

**JOINT STIPULATION AND ORDER TO
WITHDRAW DEFENDANTS' MOTIONS
FOR SUMMARY JUDGMENT OR
SUMMARY ADJUDICATION WITHOUT
PREJUDICE**

STIPULATION

This Stipulation is entered into by Plaintiff WESTERN DIRECTORIES, INC. (“Plaintiff”) and Defendants MICHAEL MASON (“Mason”), and T. TROY OTUS (“Otus”) (collectively, “Defendants”).

WHEREAS, on April 14, 2009, Plaintiff filed a Complaint in the United States District Court for the Northern District of California, Case No. 4:09-CV-01625-CW;

WHEREAS, Defendants filed their individual Notices of Motion and Motions for Summary Judgment or Summary Adjudication regarding Plaintiff’s claims on June 5, 2009, supported by declarations from Defendant Kevin Tisdale;

WHEREAS, a hearing on Defendants’ Motions for Summary Judgment or Summary Adjudication has been scheduled for July 16, 2009, at 2:00 p.m.;

WHEREAS, Plaintiff has served deposition notices with attached requests for production of documents on Defendants and on Defendant Kevin Tisdale, requesting that Defendants and Mr. Tisdale appear for depositions on June 16 (Mr. Tisdale), 17 (Mr. Mason), and 18 (Mr. Otus), and produce requested documents;

WHEREAS, Mr. Tisdale has refused to appear for his deposition;

WHEREAS, Plaintiff will be unable to obtain and review relevant documents from the corporate defendants and Kevin Tisdale and examine Defendants and Mr. Tisdale with those documents before Plaintiff’s Opposition to Defendants’ Motions for Summary Judgment or Summary Adjudication must be filed, in part because Mr. Tisdale has refused to appear for his deposition and produce documents; and in part because Plaintiff has yet to serve document requests on the corporate defendants, as the parties have yet to make initial disclosures, prepare a discovery plan, and comply with FRCP Rule 26(f);

WHEREAS, Plaintiff and Defendants wish to postpone consideration of Defendants’ Motions for Summary Judgment or Summary Adjudication until after the parties have completed Rule 26 disclosures and complied with Rule 26(f); after Plaintiff has had the opportunity to obtain requested documents from the corporate defendants, Defendants, and Mr. Tisdale; and after Plaintiff has had the opportunity to depose Defendants and Mr. Tisdale;

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1 NOW, THEREFORE, Plaintiff and Defendants desire and hereby **STIPULATE** as follows:

2 1. Defendants withdraw their individual Motions for Summary Judgment or Summary
3 Adjudication, as well as their Supporting Memoranda, Declarations, and Proposed Orders, filed June
4 5, 2009, without prejudice; and

5 2. Plaintiff withdraws its notices for the depositions of Mr. Mason and Mr. Otus,
6 without prejudice.

7 **IT IS SO STIPULATED.**

8
9 Dated: June 25, 2009

10 By: _____
11 Troy Otus
12 Defendant in Pro Per

13 Dated: June 25, 2009

14 By: _____
15 Michael Mason
16 Defendant in Pro Per

17 Dated: June 25, 2009

BRYAN CAVE LLP

18 By: /s/ James Goldberg
19 _____
20 James Goldberg
21 Attorneys for Plaintiff
22 WESTERN DIRECTORIES, INC.
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ORDER

Having reviewed the Stipulation of Plaintiff WESTERN DIRECTORIES, INC. and Defendants MICHAEL MASON and TROY OTUS (collectively, “Defendants”), and good cause appearing, IT IS ORDERED THAT:

Defendants Troy Otus and Mike Mason’s Motions for Summary Judgment or Summary Adjudication, scheduled for July 16, 2009, are both withdrawn and hereby removed from the Court’s calendar.

6/30/09

Dated: _____



United States District Judge Claudia Wilken