

1 HANSON BRIDGETT LLP
 CATHERINE W. JOHNSON, Bar No. 135070
 2 cjohnson@hansonbridgett.com
 MICHAEL J. VAN ZANDT, Bar No. 96777
 3 mvanzandt@hansonbridgett.com
 SOPHIA B. BELLOLI, Bar No. 238403
 4 sbelloli@hansonbridgett.com
 425 Market Street, 26th Floor
 5 San Francisco, CA 94105
 Telephone: (415) 995-5835
 6 Facsimile: (415) 995-3598

7 Attorneys for Plaintiff and Cross-Defendants
 Golden Gate Way, LLC and William and Yolanda
 8 Peacock

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 10 **UNITED STATES DISTRICT COURT**
 11 **NORTHERN DISTRICT OF CALIFORNIA - OAKLAND DIVISION**

12 GOLDEN GATE WAY, LLC, a
 13 California Limited Liability Company,
 14 Plaintiff,
 15 v.
 16 JEANNE STEWART, JEANNE'S
 HAMLIN CLEANERS, JEANNE
 17 STEWART dba HAMLIN CLEANERS,
 TOMMY LEE STEWART, LEONARD
 18 A. GROSS, LEONARD A. GROSS
 PROFESSIONAL CORPORATION,
 19 MARTINO FAMILY TRUST, PAULINE
 F. KIDWELL AND GERALD MARTINO,
 20 TRUSTEES, ESTATE OF RONALD
 MONROE, DECEASED, ESTATE OF
 21 MATTHEW MONROE, DECEASED
 and DOES 1-10, inclusive,
 22 Defendants.
 23 AND RELATED CROSS-CLAIMS AND
 24 COUNTER-CLAIMS.

No. C09-CV-04458-DMR
**STIPULATED REQUEST FOR ORDER
 EXTENDING TIME FOR PLAINTIFF TO
 SERVE ESTATE OF RONALD MONROE,
 DECEASED AND ESTATE OF MATTHEW
 MONROE, DECEASED AND
 [PROPOSED] ORDER THEREON**

Complaint Filed: 9/22/09
 [Assigned for All Purposes to Magistrate
 Judge Donna Ryu]

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1 STIPULATED REQUEST

2 PURSUANT TO Federal Rules of Civil Procedure Rule 4(m) and 6(b), and Civil
3 Local Rule 6-1 the undersigned parties, through their respective attorneys of record,
4 make this stipulated request for an order extending time for Plaintiff Golden Gate Way
5 LLC ("Plaintiff") to serve the Estate of Ronald Monroe, Deceased and the Estate of
6 Matthew Monroe, Deceased ("Monroe Estates"). Mr. Gross, who is representing himself
7 in this matter, has not responded to Plaintiff's numerous requests regarding his position
8 as to the stipulation. Therefore this stipulation is not made on his behalf.

9 Good cause exists for Plaintiff's request for additional time to serve the Monroe
10 Estates, as Plaintiff has been prevented from serving the Monroe Estates by factors
11 outside of its control, as described herein. See Fed. R. Civ. Proc. 4(m) (Court must
12 extend time for service when good cause exists for delay in service longer than 120
13 days); Fed. R. Civ. Proc. 6(b) (Court may extend time for an act to be done for good
14 cause with or without motion if a request is made before the time expires); *Mateo v. M/S/*
15 *KISO*, 805 F.Supp. 792, 795 (N.D. Cal. 1992) ("Good cause' for delay longer than 120
16 days generally means that . . . plaintiff was prevented from serving defendants by factors
17 beyond his control.")

18 WHEREAS, on October 21, 2010, Plaintiff Golden Gate Way LLC ("Plaintiff") filed
19 a Second Amended Complaint naming the Estate of Ronald Monroe, Deceased and the
20 Estate of Matthew Monroe, Deceased, as defendants;

21 WHEREAS, Federal Rule of Civil Procedure 4(m) provides that a complaint must
22 be served on a defendant within 120 days of being filed and permits the Court to extend
23 this time period upon a showing of good cause;

24 WHEREAS, Federal Rule of Civil Procedure 6(b) permits the Court to extend the
25 time for performance for any act required under the Federal Rules upon a showing of
26 good cause;

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1 WHEREAS, the 120 day period for service of the Second Amended Complaint on
2 the Estate of Ronald Monroe, Deceased and the Estate of Matthew Monroe, Deceased,
3 expires on February 18, 2011;

4 WHEREAS, Plaintiff intends to use Cal. Probate Code § 550 *et seq.* to serve the
5 insurance company providing insurance for the dry cleaning business owned and
6 operated by Ronald Monroe and Matthew Monroe promptly, once coverage is confirmed;

7 WHEREAS, Cal. Probate Code § 550 *et seq.* provides that a plaintiff may bring
8 suit against an estate, to the extent of applicable insurance coverage, by serving
9 decedent's insurers without having to join decedent's personal representative or
10 successor in interest, and "[t]he suit technically proceeds against the estate to determine
11 liability, but any such liability is imposed only upon the insurance companies and only up
12 to the amount of any applicable insurance," see Cal. Probate Code § 550 *et seq.*, *Cal.*
13 *Dep't of Toxic Substances Control v. Interstate Non-Ferrous Corp.*, 298 F.Supp.2d 930,
14 948-49 (E.D. Cal. 2003);

15 WHEREAS, Plaintiff wishes to extend the time for service of the Second
16 Amended Complaint on the Estate of Matthew Monroe, Deceased, and the Estate of
17 Ronald Monroe, Deceased, to allow time for confirmation of insurance coverage prior to
18 service and good cause exists for such extension as described herein;

19 WHEREAS, the other parties in the case do not object to Plaintiff's request to
20 extend time for service;

21 WHEREAS, a surviving member of the Monroe family, Cross-Defendant Joy
22 Monroe, believes insurance policies for the dry cleaning business to exist;

23 WHEREAS, counsel for Joy Monroe has requested that the relevant insurance
24 carriers confirm the existence of such policies for the Monroe dry cleaning business;

25 WHEREAS, the insurance carriers have indicated that they are searching for any
26 relevant insurance policies for the Monroe dry cleaning business but have not yet
27 confirmed that the policies exist;

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1 WHEREAS, Plaintiff, in cooperation with counsel for Joy Monroe and the Stewart
2 Defendants, intends to continue the investigation for insurance coverage for the dry
3 cleaning business owned by the Monroe family;

4 WHEREAS, until an applicable insurance policy is located, Plaintiff is unable to
5 serve the Monroe Estates pursuant to Cal. Probate Code § 550 *et seq.*;

6 WHEREAS, the parties have not previously stipulated to any other extensions of
7 time for service in this matter;

8 WHEREAS, this stipulated request will not delay the case management schedule
9 as fact and expert discovery remain open until June 4, 2012 and dispositive motions are
10 not required to be heard until July 12, 2012;

11 WHEREAS, the parties request that the Court extend the time for service of the
12 Monroe Estates an additional 120 days, until June 18, 2011, a Saturday, and making
13 service required to be completed on the following Monday, June 20, 2011;

14 NOW, THEREFORE, the parties to this action, through their undersigned counsel
15 stipulate and ask the Court to enter its order as follows:

16 1. The last day to serve the Estate of Matthew Monroe, Deceased and the
17 Estate of Ronald Monroe, Deceased, is Monday, June 20, 2011.

18 **SIGNATURES UNDER GENERAL ORDER NO. 45**

19 Pursuant to General Order No. 45 of the United States District Court Northern
20 District of California, I, Sophia B. Belloli, the ECF User whose User ID and Password are
21 used in the filing of this document hereby attest that the concurrence of the filing of this
22 document has been obtained from each of the other signatories to this document.

23 DATED: February 2, 2011

HANSON BRIDGETT LLP

24 By: /S/ Sophia B. Belloli
25 SOPHIA B. BELLOLI
26 Attorneys for Plaintiff
27 Golden Gate Way, LLC
28 Cross-Defendants
William and Yolanda Peacock

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DATED: February 2, 2011

WOOD SMITH HENNING & BERMAN

By: /S/ David Ferguson Wood

DAVID FERGUSON WOOD
MATTHEW KOVACS
Attorneys for Defendants
Jeanne Stewart, Jeanne's Hamlin
Cleaners, Jeanne Stewart dba Hamlin
Cleaners and Tommy Lee Stewart

DATED: February 2, 2011

FELDMAN LAW GROUP

By: /S/ Aaron R. Feldman

AARON R. FELDMAN
Attorneys for Cross-Defendant
Joy Lou Monroe

DATED: February 2, 2011

OPPER & VARCO LLP

By: /S/ Linda C. Beresford

LINDA C. BERESFORD
SUZANNE R. VARCO
Attorneys for Cross-Defendant
Scott Monroe

Dated: February 2, 2011

ARMSTRONG & ASSOCIATES

By: /S/ Amber Rae

WILLIAM H. ARMSTRONG
AMBER RAE
Attorneys for Defendants
Martino Family Trust
HANSON BRIDGETT LLP

DATED: February 2, 2011

By: /S/ Sophia B. Belloli

CATHERINE W. JOHNSON
MICHAEL J. VAN ZANDT
JOHN T. CU
SOPHIA B. BELLOLI
Attorneys for Plaintiff
Golden Gate Way, LLC and
Cross-Defendants
William and Yolanda Peacock

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PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED this 8th day of February, 2011



Honorable Donna Ryu
Magistrate Judge of the Federal District
Court for the Northern District of
California

1 CERTIFICATE OF SERVICE

2 **Golden Gate Way, LLC v. Jeanne Stewart, et al.**
3 **Case No C09-CV-04458-DMR**

4 I, Keith Kiley, declare that I am a resident of the State of California. I am over the
5 age of 18 years and not a party to the action entitled Golden Gate Way, LLC v. Stewart,
6 et al.; that my business address is 425 Market Street, 26th Floor, San Francisco,
7 California 94105. On February 2, 2011, I served a true and accurate copy of the
8 document(s) entitled:

9 **STIPULATED REQUEST FOR ORDER EXTENDING TIME FOR PLAINTIFF TO**
10 **SERVE ESTATE OF RONALD MONROE, DECEASED AND ESTATE OF**
11 **MATTHEW MONROE, DECEASED AND [PROPOSED] ORDER THEREON**

12 on the interested parties on the attached service list electronically through the CM/ECF
13 Pacer filing system.

14 Amy L. Foscalina, Esq.
15 Wood, Smith, Henning & Berman
16 1001 Galaxy Way, Suite 308
17 Concord, CA 94520
18 Telephone: (925) 295-1141
19 Facsimile: (925) 295-1145
20 Email: afoscalina@wshblaw.com

Andrew Thomas Lloyd, Esq.
The Lloyd Law Group PC
1 Haciendas Road
Orinda, CA 94563
Telephone: (415) 238-2300
Facsimile: (925) 254-4220
Email: andrewlloyd@lloydlawpc.com

David Ferguson Wood, Esq.
Wood, Smith, Henning & Berman
10960 Wilshire Blvd., 18th Floor
Los Angeles, CA 90024
Telephone: (310) 481-7601
Facsimile: (310) 481-7650
Email: dwood@wshblaw.com

William H. Armstrong, Esq.
Armstrong & Associates, LLP
One Kaiser Plaza, Suite 625
Oakland, CA 94612
Telephone: (510) 433-1830
Facsimile: (510) 433-1836
Email: bill.armstrong@armstrongetal.com

Matthew O. Kovacs, Esq.
Wood, Smith, Henning & Berman
10960 Wilshire Blvd., 18th Floor
Los Angeles, CA 90024
Telephone: (310) 481-7601
Facsimile: (310) 481-7650
Email: mkovacs@wshblaw.com

Aaron Roy Feldman, Esq.
Feldman Law Group
1020 Aileen Street
Lafayette, CA 94549
Telephone: (925) 283-6691
Facsimile: (925) 871-5303
Email: aaron@feldmanlawgroup.com

Leonard A. Gross
Law Offices of Leonard A. Gross
6363 Christie Ave. Apt. 1001
Emeryville, CA 94608
Served Via U.S. Mail and Facsimile

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(By First Class Mail pursuant to Code of Civil Procedure section 1013.) I am readily familiar with Hanson Bridgett's practices for collecting and processing documents for mailing with United States Postal Service. Following these ordinary business practices, I placed the above referenced sealed envelope(s) for collection and mailing with the United States Postal Service on the date listed herein at 425 Market Street, 26th Floor, San Francisco, California 94105. The above referenced sealed envelope(s) will be deposited with the United States Postal Service on the date listed herein in the ordinary course of business.

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.


Keith Kiley