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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION**

NORMAN YOSHIMOTO,

Plaintiff,

v.

O'REILLY AUTOMOTIVE, INC., a  
Missouri corporation, CSK AUTO, INC., an  
Arizona Corporation, RONALD STAHL, an  
individual, and DOES 1 through 100,  
inclusive,

Defendants.

CASE NO. C 10-05438 LB

**STIPULATED REQUEST FOR  
CONTINUANCE OF ADDITIONAL CASE  
MANAGEMENT CONFERENCE & ORDER**

CASE FILED: Feb. 9, 2010  
DEPT: Courtroom 4  
JUDGE: Hon. Laurel Beeler  
TRIAL DATE: None Set

The parties to this matter, Plaintiff NORMAN YOSHIMOTO ("Plaintiff") and Defendants CSK AUTO, INC. ("CSK") and O'REILLY AUTOMOTIVE, INC. ("O'Reilly") (collectively "Defendants"), hereby stipulate and agree as follows:

Whereas Defendants intend to file a motion for summary judgment on or before April 28, 2011 which they believe will be dispositive of the entire lawsuit (dealing with judicial estoppel arising from Plaintiff's bankruptcy proceedings);

Whereas the parties have agreed on a hearing date for the summary judgment motion of June 2, 2011 pending Court approval;

Whereas the parties have filed an Updated Joint Case Management Statement setting forth recent updates and the current status of the Plaintiff's Bankruptcy proceedings and potential amendment, as well as setting forth a preliminary proposed case schedule;

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CASE NO. C 10-05438 LB  
STIPULATION AND ORDER

1           Whereas the parties have already conducted substantial discovery on the current  
2 allegations; and,

3           Whereas the completion of any further discovery at this point may be rendered pointless  
4 by a successful motion for summary judgment.

5           The parties hereby stipulate and agree, pending Court approval, to the following:

6           1.       That Defendants' Motion for Summary Judgment will be heard by the Court on  
7 June 2, 2011 with a briefing schedule set per Local Rules 7-2, 7-3 and 56-1;

8           2.       That the continued Case Management Conference previously set for Thursday,  
9 April 7, 2011 be further continued to a date of the Court's selection, as set forth below, which will  
10 allow the summary judgment motion to first be heard and ruled upon;

11          3.       That the continued ADR Telephone Conference previously set for Thursday, June  
12 2, 2011 at 9:30 a.m. be reset for a date and time of the Court's selection, as set forth below, which  
13 will allow the summary judgment motion to first be heard and ruled upon.

14 **IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD:**

15 DATED: April 6, 2011

HIGGS FLETCHER & MACK LLP

16  
17  
18 By: /s/

JAMES M. PETERSON, ESQ.  
JASON C. ROSS, ESQ.  
Attorneys for Defendants CSK AUTO,  
INC. and O'REILLY AUTOMOTIVE,  
INC.

19  
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21 DATED: April 6, 2011

JOHN F. PRENTICE & ASSOCIATES, APC

22  
23 By: /s/

JOHN F. PRENTICE, ESQ.  
ROBERT D. POSTAR, ESQ.  
Attorneys for Plaintiff Norman K.  
Yoshimoto

1 **PURSUANT TO STIPULATION, IT IS SO ORDERED THAT:**

2 The continued Case Management Conference, previously set for 9:30 a.m., Thursday,  
3 April 7, 2011, is rescheduled for Thursday, June 23, 2011, at 10:30  
4 a.m. in Courtroom 4 of the above-noted Court.

5  
6 The parties are directed to contact the ADR program to address any scheduling issues  
7 or requests related to the ADR telephone conference currently scheduled for June 2, 2011.

8 The Defendants' motion for summary judgment will be heard by the Court on Thursday,  
9 June 2, 2011 at 11:00 a.m. The briefing schedule will be per Local Rules 7-2, 7-3 and  
10 56-1.

11 DATED: April 6, 2011

