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15 UNITED STATES DISTRICT COURT

16 NORTHERN DISTRICT OF CALIFORNIA – SAN JOSE DIVISION

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18 *In re:* ConocoPhillips Co. Service Station ) **Case No. M:09-cv-02040-RMW**  
 Rent Contract Litigation ) **JOINT STIPULATION TO SEVER MDL**  
 19 ) **CASE AND JUDGMENT**  
 20 )

21 WHEREAS, on April 13, 2011, the Court granted ConocoPhillips’ Motion to Dismiss the  
 22 Second Amended Complaint (Docket No. 98), dismissing Plaintiffs’ First, Second and Third  
 23 Claims without leave to amend, but granting twenty days leave to amend as to other claims.

24 WHEREAS, on April 20, 2011, Plaintiff, NRU INC. filed an amended complaint,  
 25 asserting a Fourth Claim for Relief for Violations of California Business and Professions Code  
 26 §21140, et seq. and a Fifth Claim for Relief for violations of California Business and Professions  
 27 Code §17200 (Docket No. 100).

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA – SAN JOSE DIVISION

*In re:* ConocoPhillips Co. Service Station ) **Case No. M:09-cv-02040-RMW**  
Rent Contract Litigation ) **JUDGMENT**  
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By Order dated April 13, 2011, the Court granted Defendant, ConocoPhillips Company’s (“ConocoPhillips”) Motion to Dismiss the Second Amended Complaint (Docket No. 98), dismissing Plaintiffs’ First, Second and Third Claims (the “MDL Claims”) without leave to amend, but granting twenty days leave to amend as to other claims. On April 20, 2011, Plaintiff, NRU INC. filed an amended complaint, asserting a Fourth Claim for Relief for Violations of California Business and Professions Code §21140, et seq. and a Fifth Claim for Relief for violations of California Business and Professions Code §17200 on behalf of itself only (Docket No. 100) (“NRU Claims”), which claims are distinct from the “MDL” claims that have been dismissed pursuant to the Court’s April 13, 2011 Order (Docket No. 98).

Therefore, pursuant to Stipulation by and between all parties to this action and for good cause, the Court hereby ORDERS, ADJUDGES AND DECREES that:

1. the NRU Claims are hereby severed from the MDL Claims that had been dismissed pursuant to the Court’s April 13, 2011 Order;
2. Plaintiffs shall take nothing by reason of their MDL Claims against ConocoPhillips and Judgment is hereby entered on such MDL Claims;

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3. ConocoPhillips shall have thirty (30) days from entry of this Judgment to file a motion for attorneys fees and costs incurred in connection with the dismissed MDL Claims.

IT IS SO ORDERED.

Dated: \_\_\_\_\_, 2011 By: Ronald M. Whyte  
The Honorable Ronald M. Whyte  
United States District Judge