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10 **Attorney for Defendant**
 11 JESUS FERNANDEZ

12
 13 **IN THE UNITED STATES DISTRICT COURT**
 14 **NORTHERN DISTRICT OF CALIFORNIA**
 15 **SAN JOSE DIVISION**

17 **YADIRA, et. al.;**
 18 **Plaintiffs,**

19 **v.**

20 **JESUS FERNANDEZ dba MARIA'S**
 21 **NIGHTCLUB; TONY'S POOL HALL**
 22 **AND FLAMINGO NIGHTCLUB; DOES 1-**
 23 **10;**

24 **Defendants,**

CASE NUMBER: C 08 05721 RMW

RELATED CASE: C 08 05722 RMW

JOINT STIPULATION AND
PROPOSED ORDER TO RESET
DISCOVERY AND TRIAL DATE IN
BOTH MATTERS; and

|| ORDER THEREON

- 25 1. **WHEREAS**, the above captioned case, Yadira v. Fernandez, C 08 05721 RMW, and the
 26 related matter, Mondragon v. Fernandez, C 08 05722 RMW were filed at the same time.
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 28

- 1 2. **WHEREAS**, Both cases involve the same Defendants, contain the same allegations and
2 are based on largely the same facts. Parties in both cases are represented by the same
3 counsel. However, the issues in the case diverge in that in the YADIRA action the
4 Plaintiffs are hourly employees, and in the other related matter, the Plaintiff is a salaried
5 and alleged managerial employee.
- 6
7 3. **WHEREAS**, Parties are nearing their date for trial and are working to complete the
8 discovery process. Much, if not all, of the parties' written discovery has been completed
9 at this point. The remaining discovery to be done consists of the depositions of the parties
10 themselves and some other of Defendants' employees.
- 11
12 4. **WHEREAS**, the depositions of the parties are ongoing. Plaintiff has concluded the
13 deposition of Defendant FERNANDEZ and will be conducting depositions of employees
14 of the Defendant later in this month.
- 15
16 5. **WHEREAS**, the facts revealed by both written discovery and depositions currently
17 underway have begun to substantially narrow the issues in this case.
- 18
19 6. **WHEREAS**, with the narrowing of parties factual dispute, parties are optimistic that
20 settlement can be achieved.
- 21
22 7. **WHEREAS**, both Plaintiff MODRAGON and the person in charge of Defendant's
23 payroll, VIRGINIA FERNANDEZ, will not be available for deposition until early
24 February and the testimony of these persons is critical to both trial and early resolution.
- 25
26 8. **WHEREAS**, in addition to clarifying the factual issues, there are certain legal issues
27 identified by the parties as amenable to resolution by motion prior to trial. For example,
28 the appropriate statute of limitations to apply to Plaintiffs' PAGA claims is subject to
dispute, and the decision of this issue would aid parties resolution of this case.

1 9. **WHEREAS**, counsel for Defendant has two complex jury trials set for trial in the near
2 future, one on January 31, 2011 and one in March of 2011.

3 10. **WHEREAS**, the parties feel that if time can be given to address these legal and factual
4 issues, settlement of this matter can be had.

5 11. **WHEREAS**, Parties agree a conference with a magistrate judge would greatly aid them
6 in this regard and to that end would like to request the Court's aid by way of settlement
7 conference.
8

9 12. **WHEREAS**, the current schedule in both of these matters does not allow for this occur
10 prior to the date currently set for trial;
11

12 13. **THE PARTIES HEREBY STIPULATE** to the following:

- 13 1. That parties respectfully request the referral of this matter to a magistrate judge for
14 the conduct of a settlement conference prior to trial;
- 15 2. That, because of the overlapping evidence and issues in each case, documents
16 discovered and depositions taken in each matter shall be available for use in either
17 matter, subject to relevance and admissibility.
18
- 19 3. That, the Court's schedule permitting, these conferences shall occur in May 2011.
- 20 4. That discovery remain open until the of May 2, 2011.
- 21 5. That the last day to hear dispositive motion shall be May 27, 2011 at 9:00 AM.
- 22 6. That a pre-trial conference for shall be held on June 9, 2011 at 2:00 PM.
- 23 7. That trial shall begin on the MONDRAGON (#C08-05722) matter on or around June
24 20, 2011 as the Court's schedule allows.
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- 26 8. That trial shall begin on the Fernandez YADIRA (#C08-05721) matter on or around
27 June 27, 2011 as the Court's schedule allows.
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Dated: Jan 18, 2011

/s/Adam Pedersen
Adam Pedersen, Esq.
Attorney for Plaintiffs

Dated: Jan 18, 2011

/s/Victoria Boone
Victoria Boone, Esq.
Attorney for Defendant

¶ ORDER

Good cause appearing, pursuant to the parties stipulation, the above modification to the scheduling order is adopted, and the dates set forth in the parties agreement shall control from here forward.

Dated: February 7, 2011

Ronald M. Whyte
Honorable Ronald M. Whyte