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

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

CASE NUMBER: C 08 05721 RMW
RELATED CASE: C 08 05722 RMW

19 **v.**

JOINT STIPULATION AND
 ----- **ORDER TO CONSOLIDATE**
MATTERS FOR TRIAL AND TO
MODIFY THE COURT'S SCHEDULING
ORDER; and

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

[-----] **ORDER THEREON**

24 **Defendants,**

25 1. **WHEREAS**, the above captioned cases cases, Yadira v. Fernandez, C 08 05721 RMW,
 26 and , Mondragon v. Fernandez, C 08 05722 RMW were filed at the same time.
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- 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 3. **WHEREAS**, Parties are nearing their date for trial and are working to complete the
7 discovery process.
- 8 4. **WHEREAS**, Parties still have several key issues to work through in regard to the
9 completion of discovery including but not limited to two pending motions to compel,
10 ongoing meet and confer efforts and several pending subpoenas for third-party
11 documents.
- 12 5. **WHEREAS**, Plaintiff has concluded the deposition of Defendant Defendant has
13 completed depositions of the Plaintiff of both actions.
- 14 6. **WHEREAS**, the current discovery cut-off in this action is May, 2 2011.
- 15 7. **WHEREAS**, Plaintiff has filed a Motion For Summary Judgment which in part seeks
16 clarification of specific legal issues, including applicable statutes of limitations, the
17 resolution of which could both define the scope of discovery subject to dispute and guide
18 parties settlement discussions.
- 19 8. **WHEREAS**, parties are willing to continue informal efforts to both complete discovery
20 and move toward settlement while they await the Court's decision on these legal points.
- 21 9. **WHEREAS**, the parties also seek to resolve as many issues as possible prior to the trial
22 of these actions.
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1 10. **WHEREAS**, the facts revealed by both written discovery and depositions currently
2 underway have begun to substantially narrow the issues in this case.

3 11. **WHEREAS**, despite the ongoing dispute, parties are resolute that some if not all of these
4 cases may be resolve by mediation.

5 12. **WHEREAS**, parties have not yet had an opportunity to mediate at all the Yadira matter,
6 either by private or court-sponsored mediation.

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

9 14. **WHEREAS**, Parties agree a conference with a magistrate judge would greatly aid them
10 in this regard and to that end would like to request the Court's aid by way of settlement
11 conference.
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13 15. **WHEREAS**, because of the commonality of the facts, relationship between the parties
14 and because the Defendant in both actions is the same, the parties are further in
15 agreement that these matters should be consolidated for the purposes of trial in order that
16 they be resolved in the most effective manner possible.
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18 16. **WHEREAS**, the current schedule in both of these matters does not allow for this occur
19 under the current case scheduling order;
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21 17. **THE PARTIES HEREBY STIPULATE** to the following:

- 22 1. That the hearing on Plaintiffs pending motions to compel be continued from their
23 current date from 5/17/2011 hearing to 6/7/2011¹, pending this Court's resolution of
24 Plaintiff's motion for summary judgment in the Yadira matter, which parties intend to
25 have re-noticed for hearing on 6/3/2011, currently set for hearing on 5/20/2011.
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¹ Plaintiffs' counsel has already re-noticed the pending motions to compel to conform
herewith.

2. That the parties agree to conduct a private mediation session in front of a mutually agreeable neutral at some point following the Court's resolution of Plaintiff's motion for summary, with mediation currently set for June 27, 2011.
3. That the matters be consolidated for the purposes of trial.
4. That the consolidated trial of both matters be conducted, per the availability of the Court, beginning on September 12, 2011 and that the previously calendared dates of June 27, 2011 (08-5721 – the Yadira matter) and June 20, 2011 (08-5721 – the Mondragon matter) be taken off-calendar.
5. That a single pre-trial conference now be held for the consolidated matters on August 25, 2011, and that the previous conferences set for June 9, 2011 be taken off-calendar.
6. That the current discovery cut-off be extended until July 15, 2011.
7. That the deadline for hearing of dispositive motions in only the Mondragon matter be extended until July 29, 2011, and in the Yadira matter that the deadline to hear dispositive motions be set for 6/3/2011, to allow parties to re-notice the current motion in order to accommodate the schedule of counsel.
8. That parties, should they not be able resolve the matter on their own through mediation, the parties are to have a settlement conference with Magistrate Judge Lloyd prior to the pretrial conference.
9. That, the Court's schedule permitting, this conference shall occur prior to the conduct of the parties pre-trial conference on August 25, 2011.

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Dated: Apr 25, 2011

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

Dated: Apr 25, 2011

/s/Victoria Booke
Victoria Booke, 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. Furthermore, this Court hereby grants the parties' request to consolidate the two matters referenced therein, case number C08-5721 and case number C08-5722, for the purposes of trial.

Dated: 5/13, 2011

Ronald M. Whyte

Honorable Ronald M. Whyte
US District Court Judge