

1 **Adam Wang, Esq. (201233)**
 2 **Adam Pedersen, Esq. (261901)**
 3 **Law Offices of Adam Wang**
 4 **12 South First Street, Suite 708**
 5 **San Jose, CA 95113**
 6 **Telephone: 408 421-3403**
 7 **Facsimile: 408 416-0248**

E-FILED - 8/12/11

8 **Attorneys for Plaintiff**
 9 **ALMA YADIRA**

10 **IN THE UNITED STATES DISTRICT COURT**
 11 **NORTHERN DISTRICT OF CALIFORNIA**
 12 **SAN JOSE DIVISION**

13 **YADIRA (08-5721);**

CASE NUMBER: C 08 05721 RMW

14 **MONDRAGON (08-5722);**

C 08 05722 RMW

15 **Plaintiffs,**

JOINT STIPULATION TO RESET TRIAL DATE; and

16 **v.**

[] ORDER

17 **JESUS FERNANDEZ dba MARIA'S**
 18 **NIGHTCLUB; TONY'S POOL HALL**
 19 **AND FLAMINGO NIGHTCLUB; DOES 1-**
 20 **10;**

21 **Defendants,**

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 23
 24 Parties, by way of this stipulation, respectfully request the Court reset the current dates
 25 for the pre-trial conference and trial. This request, detailed below is based largely on the
 26 unavailability of the Defendants, the schedules of counsel and the need to conduct the mandatory
 27 settlement conference prior to the conduct of trial. Discovery is currently closed, and all
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1 dispositive motions, except for the parties' pending motions for reconsideration, have been filed
2 and heard by the Court. Parties do not seek any modification of these dates or deadlines, only
3 those that pertain to trial.

4
5 This two subject cases, Yadira v. Fernandez, C 08 05721 RMW and Mondragon v.
6 Fernandez, C 08 05722 RMW, were filed at the same time and both cases involve the same
7 Defendants, contain the same allegations and are based on largely the same facts. Parties in both
8 cases are represented by the same counsel. However, the issues in the case diverge in that in the
9 instant action the Plaintiffs are hourly employees, and in the other related matter, the Plaintiffs
10 are alleged salaried employees. For those reasons the matters have been consolidated for
11 purposes of trial.

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13 Parties conducted a private mediation in front of mediator Jeffrey Owensby, Esq. While
14 some progress was made, parties were unable to settle either of the pending matters. Parties have
15 yet to conduct the mandatory settlement conference because they first desired to try private
16 mediation, preferring to leave the settlement conference as a last resort. While the mediation was
17 ultimately unsuccessful, counsel for parties has conferred in person and do feel that some type of
18 settlement or narrowing of issues is possible by way of further ADR.

19
20 Due to scheduling conflicts and the schedule of the Court, the parties will not be able to
21 conduct this conference until September or October of 2011. As such, given the current trial
22 schedule the conference would not be able to be held prior to trial. Further, Defendants will be
23 out of the Country during the month of August, hindering the ability of counsel to prepare the
24 matter for trial in September.

25
26 Therefore, the parties agree that the trial date should be moved to accommodate these
27 needs. Doing so will allow for the most efficient resolution possible. Parties propose the
28

1 following new dates for the pre-trial conference and trial, pending Court availability and
2 approval:

3 **TRIAL SCHEDULE**

- 4
- 5 1. Pre-Trial Conference: 12/1/2011 @ 2:00 PM
 - 6 2. Trial: starting Monday, 12/12/2011;
 - 7 3. The parties expect that the trial will last for the following number of days:
8 Five (5) court days.

9 **SIGNATURE AND CERTIFICATION BY PARTIES AND LEAD TRIAL COUNSEL**

10 Dated: August 3, 2011

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12
13 /s/Adam Pedersen
14 Adam Pederson, Esq.
15 Attorney for Plaintiffs

16 Dated: August 3, 2011

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18 /s/Victoria Booke
19 Victoria Booke, Esq.
20 Attorney for Defendant

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ORDER

The above modification to the scheduling order is adopted, and the dates set in this Scheduling Order shall control.

Dated: August 12, 2011

Ronald M. Whyte

Honorable Ronald M. Whyte