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25 **UNITED STATES DISTRICT COURT**  
 26 **NORTHERN DISTRICT OF CALIFORNIA**

27 SUSAN MORA, as Trustee of The Merl Saunders  
 28 Trust; MERL SAUNDERS, JR., as Trustee of The  
 Merl Saunders Trust; and ANTHONY  
 SAUNDERS WASHINGTON, as Trustee of The  
 Merl Saunders Trust,

Plaintiffs,

v.

JERRY GARCIA ESTATE, LLC, a California  
 limited liability company; JERRY GARCIA  
 FAMILY LLC, a California limited liability  
 company; and DOES 1 through 1000, inclusive,  
 Defendants.

CASE NO. 5:08-CV-05772-PVT

**STIPULATION RE: EXTENSION OF TIME  
 TO SERVE SUMMONS AND COMPLAINT;  
 XXXXXXXXXXXX ] ORDER**

Honorable Patricia V. Trumbull

1 This Stipulation is entered into by and between SUSAN MORA, as Trustee of The Merl  
2 Saunders Trust; MERL SAUNDERS, JR., as Trustee of The Merl Saunders Trust; and ANTHONY  
3 SAUNDERS WASHINGTON, as Trustee of The Merl Saunders Trust (collectively "Plaintiffs"), on the  
4 one hand, and JERRY GARCIA ESTATE, LLC, a California limited liability company, and JERRY  
5 GARCIA FAMILY, LLC, a California limited liability company (collectively "Defendants"), on the  
6 other hand. Plaintiffs and Defendants may be referred to herein severally as a "Party" or jointly as the  
7 "Parties."

8 This Stipulation is made with reference to the following recitals:

9 1. On December 29, 2008 (the "Filing Date"), Plaintiffs filed this action naming as  
10 defendants herein JERRY GARCIA ESTATE, LLC, a California limited liability company, and JERRY  
11 GARCIA FAMILY, LLC, a California limited liability company, as well as Doe defendants.

12 2. Pursuant to Rule 4(m) of the Federal Rules of Civil Procedure, the Summons and  
13 Complaint must be served within one hundred twenty (120) days of the Filing Date, *i.e.*, by April 25,  
14 2009.

15 3. The Complaint makes various allegations against Defendants regarding, *inter alia*,  
16 violation of the Lanham Act and California statutory rights of publicity arising out of the commercial  
17 release of professional recordings of live performances by Merl Saunders and Jerry Garcia, both of  
18 whom are now deceased (the "Master Tapes").

19 4. Since the Filing Date, counsel for Plaintiffs has conferred and corresponded with counsel  
20 for Defendants and related parties, including members and managers of each of Defendants, who may  
21 need to be named as substituted "Doe defendants," regarding entering into a tolling agreement and a  
22 voluntary dismissal of the action without prejudice, in order to allow all relevant parties to privately  
23 mediate the dispute, including without limitation regarding the matter of disposition of the Master  
24 Tapes.

25 5. Pending negotiations and agreement to a tolling agreement and a voluntary dismissal of  
26 the action without prejudice, Plaintiffs have refrained from serving the Summons and Complaint.

27 6. The Parties have not yet concluded their negotiations over the terms of the tolling  
28 agreement and any agreement to dismiss the action without prejudice. In order to permit such

1 conclusion, the Parties have mutually agreed to an extension of forty-five (45) days in which to serve the  
2 Summons and Complaint, to and including June 9, 2009.

3 7. The Parties have not previously sought nor agreed to any time modifications in this case,  
4 whether by stipulation or Court order. The parties anticipate the time modifications agreed to and  
5 requested below will: (a) necessitate and justify a continuance of the Case Management Conference  
6 currently scheduled by the Court for May 12, 2009; and (b) potentially save the Court from expending  
7 further resources on this action should the parties be successful in their attempts to mediate a resolution  
8 of their dispute. See, Declaration of Richard J. Idell filed herewith.

9 NOW THEREFORE, subject to approval by the Court, the Parties agree as follows:

10 1.0 The foregoing recitals are hereby incorporated by this reference.

11 2.0 Plaintiffs shall have to and including June 9, 2009, to serve the Summons and Complaint  
12 in this action.

13 3.0 The Case Management Conference currently scheduled for May 12, 2009, shall be  
14 continued until August 11, 2009, at 2:00 p.m., with all related dates adjusted accordingly.

15 4.0 Plaintiffs shall file this Stipulation with the Court for an order thereon.

16  
17 IDELL & SEITEL, LLP

18 Dated: April 9, 2009

19 By: /s/ Richard J. Idell

20 Richard J. Idell

Ory Sandel

*Attorneys for Plaintiffs*

21  
22 TOBIN & TOBIN

23 Dated: April 9, 2009

24 By: /s/ Keith Kandarian

25 Keith Kandarian

*Attorneys for Defendant Jerry Garcia Estate, LLC*

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DONAHUE GALLAGHER WOODS LLP

Dated: April 9, 2009

By: /s/ Eric A. Handler  
Eric Doney  
Lawrence K. Rockwell  
Eric A. Handler  
*Attorneys for Defendant Jerry Garcia Family LLC*

**[PROPOSED] ORDER**

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: April 10, 2009

  
HONORABLE PATRICIA V. TRUMBULL  
UNITED STATES CHIEF MAGISTRATE JUDGE

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