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8 **THE UNITED STATES DISTRICT COURT**
 9 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

11 ALMA CLARISA HERNANDEZ, et al.,)	Case No.: 5:10-CV-02848-EJD
)	
12 Plaintiffs,)	PLAINTIFFS' SECOND REQUEST TO
)	CONTINUE FURTHER CASE
13 vs.)	MANAGEMENT CONFERENCE AND
)	DATE SET FOR AMENDMENT OF
14 VALLCO INTERNATIONAL SHOPPING)	PLEADINGS; PROPOSED ORDER
15 CENTER, LLC, et al.,)	
)	Assigned to Honorable Edward J. Davila
16 Defendants.)	
)	
)	

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19 Plaintiffs Alma Clarisa Hernandez, Theresa Wallen and Ronald Moore (“Plaintiffs”)
 20 hereby respectfully request that the Court again continue the Further Case Management
 21 Conference currently set for March 16, 2012 and the deadline of February 29, 2012 for
 22 amendment of pleadings, both set upon request of Plaintiffs and by the Court’s Order dated
 23 December 15, 2011, for the following reasons:

24 1. This matter was brought by Plaintiffs under the Americans with Disabilities Act
 25 Title III (“ADA”) to have alleged barriers to their access removed from defendants’ facilities
 26 located at the Vallco Shopping Mall in Cupertino, California. Accordingly, this Court’s
 27 General Order 56 (“GO 56”) has governed the procedural course of this matter to date. The
 28 mediation required under GO 56 was originally set by the mediator Daniel Bowling for

1 January 23 and 24, 2012, but those dates were cancelled at the last minute due to the sudden
2 and unanticipated hospitalization of defendants' expert Kim Blackseth whose participation was
3 determined by the mediator and various defendants to be indispensable. Mr. Bowling has
4 rescheduled the mediation to March 2, 2012, March 8, 2012 and March 9, 2012, with an
5 additional date of April 12, 2012 proposed (although yet to be confirmed, and which date may
6 be forced into May 2012) as a follow-up date if the matter is not resolved at the previous
7 mediation dates.

8 2. Plaintiffs have now resolved this matter as to all but ten (10) defendants (seven (7)
9 pro se defendants and three (3) represented defendants), are finalizing those settlements, and
10 are optimistic that mediation will resolve the matter as to most if not all the remaining
11 defendants.

12 3. The purpose of GO 56 is "to require the parties to engage in a structured process
13 designed to achieve early compliance with the ADA while minimizing the adversarial litigation
14 process and concomitant fees." *White v. Ming R. Shen*, 2011 U.S. Dist. LEXIS 2174 (N.D.
15 Cal. Jan. 5, 2011). The Further Case Management Conference will best serve the purpose of
16 GO 56 if held after mediation in order to afford the parties an opportunity to reach an informal
17 resolution prior to incurring the costs preparing for and attending the conference.

18 4. Requiring amendment of Plaintiffs' operative complaint prior to the completion of
19 mediation will needlessly add significant attorney fees to address allegations against
20 defendants who may be dismissed after mediation. Plaintiffs must amend their complaint to
21 conform to the standing requirements of *Chapman v. Pier One Imports (U.S.), Inc.*, 631 F.3d
22 939 (9th Cir. 2011) (decided after Plaintiffs' filing of their Second Amended Complaint) and
23 also to allege every barrier they seek to have removed from each of defendants' facilities
24 (information obtained as a result of the joint site inspections which occurred after Plaintiffs'
25 initial filing). Amongst other relief, Plaintiffs seek the recovery of attorney fees and costs in
26 this matter. Therefore, minimizing the amount of such fees is beneficial to all defendants in
27 this action.

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1 5. Accordingly, Plaintiffs hereby respectfully request that the Court continue the
2 Further Case Management Conference to a date after June 8, 2012 to afford time for the
3 completion of mediation, and the last date to file a motion for leave to amend their Second
4 Amended Complaint to June 8, 2012.

5 Dated: February 16, 2012

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8 /s/ Tanya E. Moore
9 Tanya E. Moore, Attorneys for
10 Plaintiffs Alma Clarisa Hernandez,
11 Ronald Moore and Theresa Wallen

12 **ORDER**

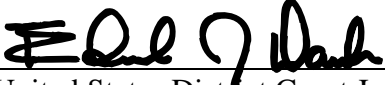
13 Upon request of Plaintiffs and good cause appearing,

14 **IT IS HEREBY ORDERED** that the Further Case Management Conference be
15 continued to ___ May 4 ___, 2012 at 10:00 a.m. in Courtroom 4 . The Parties are ordered to file
16 an updated Case Management Conference Statement one week prior to the conference.

17 **IT IS FURTHER ORDERED** that Plaintiffs shall have to and including May 4, 2012
18 to file a stipulation or motion to amend their Second Amended Complaint.

19 **IT IS SO ORDERED.**

20 Dated: February 27, 2012
21 _____

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23 _____
24 United States District Court Judge