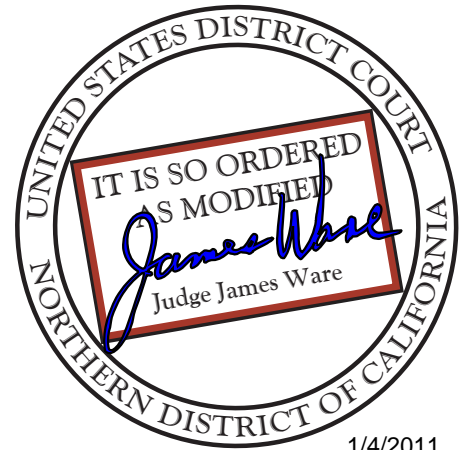


1 DARRYL M. WOO (CSB NO. 100513)
 2 dwoo@fenwick.com
 3 RYAN J. MARTON (CSB NO. 223979)
 4 rmarton@fenwick.com
 5 LESLIE A. KRAMER (CSB NO. 253313)
 6 lkramer@fenwick.com
 7 FENWICK & WEST LLP
 8 555 California Street, 12th Floor
 9 San Francisco, CA 94104
 10 Telephone: (415) 875-2300
 11 Facsimile:(415) 281-1350



12 Attorneys for Plaintiff
 13 Vendio Services, Inc.

14 UNITED STATES DISTRICT COURT
 15 NORTHERN DISTRICT OF CALIFORNIA
 16 SAN JOSE DIVISION

17 VENDIO SERVICES, INC., a Delaware
 18 corporation,
 19
 20 Plaintiffs,
 21
 22 v.
 23 P.S. PRODUCTS, INC., an Arkansas
 24 corporation, and BILLY PENNINGTON, an
 25 individual,
 26
 27 Defendants.

28 Case No. 5:10-cv-04455 JW

**STIPULATION AND [PROPOSED]
 ORDER**

WHEREAS, Plaintiff Vendio Services, Inc. (“Vendio”) filed this declaratory judgment action on October 1, 2010;

WHEREAS, Defendants P.S. Products, Inc. and Billy Pennington (collectively, Defendants) filed their Motion to Dismiss for Lack of Jurisdiction or, in the Alternative, Motion to Transfer (“Motion”) on October 27, 2010 (Dkt. No. 15);

WHEREAS, Defendants’ Motion is currently scheduled for hearing on February 14, 2011;

WHEREAS, Vendio intends to file its First Amended Complaint, attached as Exhibit A;

WHEREAS, Defendants consent to the filing of the First Amended Complaint pursuant to Federal Rule 15(a)(2);

WHEREAS, in light of the First Amended Complaint, Defendants’ Motion is moot and,

1 therefore, Defendants agree to withdraw that Motion;

2 WHEREAS, the parties have conferred and agreed that Defendants' deadline to respond to
3 the First Amended Complaint shall be February 2, 2011;

4 NOW THEREFORE, IT IS STIPULATED BY THE UNDERSIGNED PARTIES that:

5 1. Subject to the Court's approval, the First Amended Complaint shall be filed on or
6 before January 5, 2011 as a separate docket entry.

7 2. Defendants' Motion (Dkt. No. 15) is moot and hereby withdrawn; the hearing set
8 for February 14, 2011 is VACATED. The Clerk shall terminate pending motion.

9 3. Defendants' deadline to respond to the First Amended Complaint is now February
10 2, 2011.

11 SO STIPULATED.

12 Dated: January 3, 2011

FENWICK & WEST LLP

13 By: /s/ Ryan J. Marton

Ryan J. Marton

14 Attorneys for Plaintiff Vendio Services, Inc.

15 Dated: January 3, 2011

STEWART LAW FIRM

16 By: /s/ Chris H. Stewart

Chris H. Stewart

17 Attorneys for Defendants

18 P.S. Products, Inc. and Billy Pennington

19
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ATTESTATION PURSUANT TO GENERAL ORDER 45

I, Ryan J. Marton, attest that concurrence in the filing of this document has been obtained from any signatories indicated by a “conformed” signature (/s/) within this e-filed document.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this 3rd day of January 2011, at San Francisco, California.

FENWICK & WEST LLP

By: /s/ Ryan J. Marton
Ryan J. Marton

Attorneys for Plaintiff Vendio Services, Inc.

James Ware **ORDER**

PURSUANT TO STIPULATION, IT IS SO ORDERED AS MODIFIED.

Dated: January 4, 2011

By: *James Ware*
Honorable James Ware