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Attorneys for Plaintiff
Vendio Services, Inc.

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

VENDIO SERVICES, INC., a Delaware corporation,

Plaintiff,

v.

P.S. PRODUCTS, INC., an Arkansas corporation, and BILLY PENNINGTON, an individual,

Defendants.

Case No. 5:10-cv-04455 JW

STIPULATION AND [PROPOSED] ORDER WITHDRAWING DEFENDANTS' MOTION TO DISMISS

WHEREAS, Plaintiff Vendio Services, Inc. ("Vendio") filed its Amended Declaratory Judgment Complaint on January 5, 2011 (the "Amended Complaint");

WHEREAS, on February 2, 2011 Defendants filed a motion to dismiss the Amended Complaint and, in the alternative, to transfer to the Eastern District of Arkansas (the "Motion");

WHEREAS, the Motion is currently scheduled for hearing on April 11, 2011;

WHEREAS, the parties have been discussing settlement and expect to have the terms of that settlement finalized within the next two weeks;

WHEREAS, in furtherance of that settlement, Defendants have agreed to withdraw the Motion without prejudice to re-filing should the parties not finalize a settlement agreement;

WHEREAS, in the event the parties do not reach a settlement, Defendants will file their

responsive pleading no later than April 4, 2011;

NOW THEREFORE, the parties jointly stipulate that:

1. The Motion is hereby withdrawn without prejudice to being re-filed;

2. Should the parties not reach a settlement agreement, Defendants will file their responsive pleading to the Amended Complaint no later than April 4, 2011.

SO STIPULATED.

Dated: March 18, 2011

FENWICK & WEST LLP

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

Attorneys for Plaintiff Vendio Services, Inc.

Dated: March 18, 2011

STEWART LAW FIRM

By: /s/ Chris H. Stewart
Chris H. Stewart

Attorneys for Defendants
P.S. Products, Inc. and Billy Pennington

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 18th day of March 2011, at San Francisco, California.

FENWICK & WEST LLP

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

Attorneys for Plaintiff Vendio Services, Inc.

FENWICK & WEST LLP
ATTORNEYS AT LAW
SAN FRANCISCO

[PROPOSED] ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: March 21, 2011

By: James Ware
Honorable James Ware
United States District Chief Judge