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FILED-SOUTHERN DIVISION  
CLERK, U.S. DISTRICT COURT  
JAN - 6 2006  
CENTRAL DISTRICT OF CALIFORNIA  
BY DEPUTY

Attorneys for Defendant  
CAPELLA UNIVERSITY, A CORPORATION

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
SOUTHERN DIVISION

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FILED IN U.S. DISTRICT COURT  
CENTRAL DIST. OF CALIF.  
SANTA ANA

JEFFRY LA MARCA, an individual,  
BY Plaintiff,  
v.  
CAPELLA UNIVERSITY, a corporation,  
Defendant.

Case No. SACV05-642 DOC (MLGx)

STIPULATION AND [PROPOSED]  
ORDER TO CONTINUE HEARING  
DATE ON PLAINTIFF'S MOTION TO  
STRIKE COUNTERCLAIMS

BY FAX

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DOCKETED ON CM  
JAN 10 2006  
BY 024

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DRINKER BIDDLE & REATH LLP  
50 Fremont Street, 20th Floor  
San Francisco, CA 94105

1 WHEREAS, this Court entered its Order on November 15, 2005 ("the Order")  
2 staying plaintiff's motion to strike defendant's counterclaims until January 23, 2006 at  
3 8:30 a.m. or another mutually-agreed upon date; and

4 WHEREAS, the Order set forth a briefing schedule in which the parties are  
5 permitted to file supplemental briefs at least two weeks prior to the hearing date and reply  
6 briefs at least 10 days prior to the hearing date; and

7 WHEREAS, the parties have endeavored to complete the limited discovery  
8 prescribed in the Order and have substantially completed the same; and

9 WHEREAS, the deposition of plaintiff prescribed by the Order could not be  
10 commenced until Thursday December 29, 2005 and, although substantially complete,  
11 could not be concluded at that time because of disagreements regarding the scope and  
12 breadth of the Court's Order; and

13 WHEREAS, the parties have resolved their differences and have agreed to a  
14 second session of plaintiff's deposition limited to those topics which were the subject of  
15 the dispute; and

16 WHEREAS, the holiday schedule during this time has delayed receipt of the  
17 transcript for the completed portion of plaintiff's deposition; and

18 WHEREAS, the deposition transcript is necessary for each party's preparation of  
19 its supplemental brief, which briefs are currently due Monday, January 9, 2006; and

20 WHEREAS, it is the mutual desire of the parties to continue the hearing and  
21 briefing to a date convenient both to the Court and the parties;

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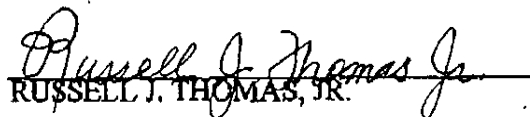
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1            THEREFORE, pursuant to the Order, the Federal Rules of Civil Procedure, and  
 2 Local Rules 7-1 and 52-9, Russell J. Thomas, Jr., counsel for plaintiff JEFFRY LA  
 3 MARCA, and H. Christian L'Orange, counsel for defendant CAPELLA UNIVERSITY,  
 4 do hereby stipulate that the hearing on plaintiff's Motion to Strike be continued from  
 5 January 23, 2006 to February 6, 2006 at 8:30 a.m., and do further stipulate that that the  
 6 briefing be continued pursuant to the Order, *i.e.*, supplemental briefs will be due no later  
 7 than two weeks prior, *i.e.*, January 23, 2006 and reply briefs will be due no later than 7  
 8 days prior, *i.e.*, January 30, 2006.

9            IT IS SO STIPULATED.

11 Dated: January 6, 2006

THOMAS & ASSOCIATES

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 13   
 RUSSELL J. THOMAS, JR.

Attorneys for Plaintiff  
JEFFRY LA MARCA

16 Dated: January 6, 2006

DRINKER BIDDLE & REATH LLP

17  
 18   
 H. CHRISTIAN L'ORANGE

Attorneys for Defendant  
CAPELLA UNIVERSITY, A  
CORPORATION

22            IT IS SO ORDERED.

24 Dated: January 6, 2006

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DAVID O. CARTER  
UNITED STATES DISTRICT JUDGE

DRINKER BIDDLE & REATH LLP  
50 Framont Street, 20th Floor  
San Francisco, CA 94105

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**CERTIFICATE OF SERVICE**

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I, JOY MORLA, declare that:

I am at least 18 years of age, and not a party to the above-entitled action. My business address is 50 Fremont Street, 20th Floor, San Francisco, California 94105, Telephone: (415) 591-7500.

On January 6, 2006, I caused to be served the following document(s):

**STIPULATION AND [PROPOSED] ORDER TO CONTINUE HEARING DATE ON PLAINTIFF'S MOTION TO STRIKE COUNTERCLAIMS**

by enclosing a true copy of (each of) said document(s) in (an) envelope(s), addressed as follows:

- BY MAIL: I am readily familiar with the business' practice for collection and processing of correspondence for mailing with the United States Postal Service. I know that the correspondence is deposited with the United States Postal Service on the same day this declaration was executed in the ordinary course of business. I know that the envelope was sealed, and with postage thereon fully prepaid, placed for collection and mailing on this date, following ordinary business practices, in the United States mail at San Francisco, California.
- BY PERSONAL SERVICE: I caused such envelopes to be delivered by a messenger service by hand to the address(es) listed below:
- BY OVERNIGHT DELIVERY: I enclosed a true copy of said document(s) in a Federal Express envelope, addressed as follows:
- BY FACSIMILE: I caused such documents to be transmitted by facsimile transmission and mail as indicated above.

Russell J. Thomas, Jr.  
THOMAS & ASSOCIATES  
2532 Dupont Drive  
Irvine, CA 92612  
Tel: 949-752-0101  
Fax: 949-752-7172  
E-mail: [rjtlawfirm@yahoo.com](mailto:rjtlawfirm@yahoo.com)

*Attorneys for Plaintiff*

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on January 6, 2006 at San Francisco, California.

Joy Morla 