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8 **UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**
10 **SAN FRANCISCO DIVISION**

11 ANDRONIKI GATES, individually and on
12 behalf of other persons similarly situated,

13 Plaintiff,

14 vs.

15 STARBUCKS CORPORATION,

16 Defendant.
17

) Case No. CV 09-2702 JSW

) **CLASS ACTION**

) **STIPULATION FOR CONTINUANCE OF**
) **MOTION HEARING AND ~~proposed~~**
) **ORDER THEREON**

) Current Hearing Date: December 18, 2009

) Proposed Hearing Date: January 22, 2010
)
)

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19 Plaintiff Androniki Gates (“Plaintiff”) and defendant Starbucks Corporation
20 (“Defendant”), by and through their respective counsel, enter into the following Stipulation for
21 Continuance of Motion Hearing and mutually request the Court to approve this Stipulation and
22 enter an order in accordance therewith as proposed herein.

23 **STIPULATION**

24 1. On November 6, 2009, Defendant filed a motion to dismiss or, in the alternative,
25 to transfer this action to the Central District of California. Defendant’s motion is scheduled for
26 hearing on December 18, 2009. Defendant contends that the case of *York v. Starbucks*
27 *Corporation*, which has been pending in the Central District since December 2, 2008, includes
28 the same claim asserted by Plaintiff and the same putative class Plaintiff seeks to represent.

STIPULATION AND ORDER FOR CONTINUANCE OF HEARING

1 2. On October 9, 2009, Plaintiff filed in the Ninth Circuit a petition for permission to
2 appeal from the Court's order denying Plaintiff's motion for remand, which this Court certified
3 for interlocutory appeal pursuant to 28 U.S.C. Section 1292(b).

4 3. On November 9, 2009 Defendant filed a motion for summary adjudication in the
5 *York* action. That motion is scheduled for hearing on November 30, 2009.

6 4. A ruling by the Ninth Circuit on Plaintiff's petition for appeal and/or a ruling on
7 Defendant's motion for summary judgment in the *York* action will likely render moot the motion
8 in this action presently scheduled for hearing on December 19, 2009. If the Ninth Circuit grants
9 Plaintiff's petition for appeal, the parties will mutually request a stay pending ultimate resolution
10 by the Ninth Circuit of the jurisdictional issue to be decided on appeal. If the Ninth Circuit
11 denies Plaintiff's petition for appeal and Defendant's motion for summary adjudication is denied,
12 the parties will stipulate to a transfer of this action to the Central District. If the Ninth Circuit
13 denies Plaintiff's petition for appeal and Defendant's motion for summary adjudication is
14 granted, the *York* action may no longer include any of the claims asserted by Plaintiff in this
15 action. The parties anticipate rulings on Plaintiff's petition for permission to appeal and
16 Defendant's motion for summary adjudication within a few weeks.

17 5. To conserve their own and the Court's resources, the parties mutually request that
18 the hearing on Defendant's motion presently scheduled for December 18, 2009 be continued until
19 January 22, 2010.

20 Dated: November 24, 2009

SPIRO MOSS LLP

21
22 By: /s/ Gregory N. Karasik
Gregory N. Karasik

23 Attorneys for Plaintiff
24 ANDRONIKI GATES

25 Dated: November 24, 2009

AKIN GUMP STRAUSS HAUER & FELD LLP

26 By: /s/ Mark R. Curiel
27 Mark R. Curiel

28 Attorneys for Defendant
STARBUCKS CORPORATION

ORDER

Good cause having been shown, the foregoing Stipulation is hereby approved and it is hereby ordered that the hearing on Defendant's motion to dismiss, or in the alternative, for transfer to the Central District of California, shall be continued to January 22, 2010. If a further continuance is required, the parties shall file a further stipulation to that effect prior to January 22, 2010.

Dated: November 30, 2009


United States District Judge