

O

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

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

TRACI WALLERSTEIN, on behalf of
herself and all others similarly situated,

Plaintiff,

v.

DOLE FRESH VEGETABLES, INC.

Defendant.

Case No. 2:13-cv-07271-ODW(VBKx)

**ORDER DENYING STIPULATION
EXTENDING TIME FOR
PLAINTIFF TO MOVE FOR CLASS
CERTIFICATION [58]**

On October 8, 2013, the parties filed a joint stipulation to continue the class certification filing deadline. (ECF No. 58.) The parties request that the Court continue the certification deadline to 90 days after the Court rules on Dole's pending motion to dismiss. Wallerstein further avers that she needs more time to conduct class-certification discovery and prepare her motion

Wallerstein's assertion that she needs more time to conduct class-certification discovery does not amount to good cause for continuing the certification deadline. District courts have broad discretion over the class-certification process, including whether to permit certification-related discovery. *Vinole v. Countrywide Home Loans, Inc.*, 571 F.3d 935, 942 (9th Cir. 2009). A party is not entitled to certification discovery, though the pleadings alone often do not suffice to resolve the certification

///

1 question. *Id.* When a district court sets a deadline, the party seeking to alter that date
2 must present good cause for the change. Fed. R. Civ. P. 6(b)(1).

3 Permitting Wallerstein to extend the certification filing deadline to conduct
4 discovery would subvert the interests of diligence required by Federal Rule of Civil
5 Procedure 23(c)(1)(A). While Federal Rule 23 does not include a time period, Local
6 Rule 23-3 provides that within “90 days after service of a pleading purporting to
7 commence a class action . . . the proponent of the class shall file a motion for
8 certification that the action is maintainable as a class action, unless otherwise ordered
9 by the Court.” The plain language of the Local Rule is clear and unambiguous. To
10 permit extension of the 90-day deadline would frustrate Rule 23(c)(1)(A)’s directive,
11 which requires the court to determine at “an early practicable time . . . whether to
12 certify the action as a class action.”

13 Additionally, the length of the parties’ requested continuance is unreasonable.
14 This action was transferred to this Court from the Northern District of California on
15 October 4, 2013. (ECF No. 55.) Accordingly, Wallerstein’s certification motion must
16 be filed by December 30, 2013. The hearing date for Dole’s Motion to Dismiss is
17 November 8, 2013. (ECF No. 43.) Thus, the requested 90-day extension would give
18 Wallerstein until February 8, 2014—at the earliest—to file her motion for class
19 certification. This extension is excessive. The November 8, 2013 hearing date still
20 affords Wallerstein 52 days—almost double a standard briefing period—to file her
21 certification motion. Thus, the added efficiency of postponing the class-certification
22 deadline to 90 days after the motion to dismiss is negligible at best. In sum, the
23 parties have not shown good cause to continue the certification deadline.

24 Sound practical considerations undergird the demand for a timely class-
25 certification motion. A representative plaintiff’s delay in filing for class certification
26 impedes the court’s consideration of the issue and—more importantly—can prejudice
27 the rights of the class members. Indeed, “pertinent statutes of limitation may be
28 running and important interests may be exposed to injury or destruction.” *Jones v.*

1 *Hartford Ins. Co. of Midwest*, 243 F.R.D. 694, 695 (N.D. Fla. 2006). While the
2 determination of class certification is delayed, members of a putative class “may be
3 led by the very existence of the lawsuit to neglect their rights until after a negative
4 ruling on this question—by which time it may be too late for the filing of independent
5 actions.” *Id.* Of course, these harms are not a concern if the action is ultimately
6 determined to be properly maintainable as a class action. But that can be known only
7 after the class-certification motion is filed.

8 For the reasons stated above, the Court **DENIES** the parties’ Stipulation
9 Extending Time for Plaintiff to Move for Class Certification. Wallerstein’s Motion
10 for Class Certification must be filed by **December 30, 2013**—the Monday before the
11 end of the 90-day deadline provided by Local Rule 23-3.

12
13 **IT IS SO ORDERED.**

14 October 9, 2013



15 **OTIS D. WRIGHT, II**
16 **UNITED STATES DISTRICT JUDGE**