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 9 Sun Pacific Farming Cooperative and  
 10 Sun Pacific Farming Company

11 UNITED STATES DISTRICT COURT  
 12 EASTERN DISTRICT OF CALIFORNIA

13 TOMAS BRAN, on behalf of himself and a class  
 14 of others similarly situated,

15 Plaintiffs,

16 vs.

17 SUN PACIFIC FARMING COOPERATIVE, a  
 18 California Corporation; SUN PACIFIC  
 19 FARMING CO., form unknown; and DOES 1  
 20 through 100, inclusive,

21 Defendants.

Case No. 1:06-CV-00871-OWW-TAG

**STIPULATION AND ORDER TO  
 CONTINUE TIME TO ANSWER OR  
 PLEAD TO PLAINTIFFS' FIRST  
 AMENDED COMPLAINT**

Courtroom 3  
 Judge: Hon. Oliver W. Wanger

22 **TO THE COURT, ALL PARTIES AND THEIR ATTORNEYS OF RECORD IN THIS  
 23 ACTION:**

24 **I.**

25 **STIPULATION**

26 **WHEREAS**, all parties by and through their counsel have agreed good causes exists to  
 27 extend until Thursday November 16, 2006, the time for Defendants to answer plaintiffs' First  
 28 Amended Complaint (hereafter "complaint") recently filed and served in this action on October 13,  
 2006, in response to Defendants' Motion to Dismiss previously set for an October 30, 2006 hearing  
 and now off calendar;

1           **WHEREAS**, the parties have agreed to continue the hearing date for two weeks;

2           **IT IS HEREBY STIPULATED AND AGREED** by and between the parties hereto through  
3 their respective attorneys of record as follows:

4           1.       Good cause exists to order an extension of time until November 16, 2006 for  
5 defendants to answer or otherwise plead to the FAC and the parties to this action hereby ask the  
6 Court to order it for each of the following reasons, each of which constitute good cause to do so.

7           2.       Defendants timely filed a motion dismiss plaintiff Tomas Bran's original complaint in  
8 this action (hereafter "Motion"). The motion was set for an October 30, 2006 hearing. Plaintiff Bran  
9 responded to the Motion on the Friday evening October 13, 2006, last week, filing a First Amended  
10 Complaint adding two new plaintiffs Garcia and Ayon, and dismissing his own claims completely  
11 and in their entirety. Last week, counsel initiated a productive meet and conferral in response to the  
12 claims pleaded by the new plaintiffs and that fact that the new complaint fails to address all of the  
13 pleading issues raised in the Motion. The parties' joint factual investigations and conferral is ongoing  
14 at this time and continues to be a productive exchange of information among the parties in an effort  
15 to resolve remaining pleading issues and eliminate the possibility of others to productive end.

16           3.       A possible outcome of this exchange among counsel could be that plaintiffs may opt  
17 to file a further amendment to the FAC thereby obviating the need for further pleading practice or  
18 that defendants may elect to answer rather than refile a new motion to dismiss.

19           4.       The undersigned counsel for the parties agree that this investigative process and  
20 exchange of evidence and information should require no more than three weeks' time to complete  
21 and agree that it has been and should continue to be a productive exchange well spent. All counsel  
22 agree that this process is productive and could obviate the need for further motion practice attacking  
23 the pleadings by defendants at this pleading phase of the case and controversy.

24           5.       Therefore, the parties by and through their respective attorneys of record agree and ask  
25 this Court, for the good cause demonstrated herein, to enter an order granting Defendants the  
26 described extension of time until November 16, 2006 to answer or otherwise plead to Plaintiff's First  
27 Amended Complaint filed in this action.

1  
2 DATED: October 23, 2006

MCNICHOLAS & MICNICHOLAS LLP

3  
4 By: /s/ Matthew S. McNicholas  
5 (Authorized October 23, 2006)  
6 Matthew S. McNicholas  
7 Attorney for Plaintiffs

8  
9 DATED: October 23, 2006

NIXON & PEABODY LLP

10 By: /s/ J. Thomas Trombadore  
11 J. Thomas Trombadore  
12 Attorneys for Defendants

13 **II.**  
14 **ORDER**

15 Good Cause exists to grant the foregoing Stipulation of the parties in light of the foregoing  
16 recitals of counsel. Therefore, the foregoing Stipulation of the Parties is hereby ordered.

17 IT IS SO ORDERED.

18 DATED: October 24, 2006

/s/ Oliver W. Wanger  
OLIVER W. WANGER  
Judge of the United States District Court  
Eastern District of California