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A Limited Liability Partnership

2 Including Professional Corporations

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11 Attorneys for Defendants Taco Bell Corp. and

12 Taco Bell of America, Inc.

13 **UNITED STATES DISTRICT COURT**

14 **EASTERN DISTRICT OF CALIFORNIA, FRESNO DIVISION**

15  
16  
17 IN RE TACO BELL WAGE AND HOUR  
ACTIONS

Case No. 1:07-cv-1314-SAB

**STIPULATION AND ORDER TO  
VACATE EVIDENTIARY HEARING**

Judge: Hon. Stanley A. Boone

Date: September 20, 2013

Time: 10:30 a.m.

Crtrm.: 9

1 TO THE COURT, PLAINTIFFS, AND THEIR ATTORNEYS OF RECORD:

2 **IT IS HEREBY STIPULATED** by and between Plaintiffs and Taco Bell  
3 Corp. and Taco Bell of America, Inc. (“Defendants”), through their counsel of record, that:

4 1. As a result of discussions during the June 16, 2013 status conference, the  
5 Court set an evidentiary hearing for August 16, 2013, to ascertain whether Defendants’  
6 database can be utilized to identify the members of the class in an efficient and cost  
7 effective way. On August 12, 2013, the parties filed a stipulation to continue the  
8 evidentiary hearing. (Doc. 372.) On August 14, 2013, the Court continued the evidentiary  
9 hearing to September 20, 2013, at 10:30 a.m. (Doc. 373.)

10 2. Over the past month, the parties have continued their efforts to resolve the  
11 ascertainability issue. On August 9, 2013, Defendants produced the raw time punch data  
12 described by Defendants’ designated person most knowledgeable during the Rule 30  
13 deposition on June 4, 2013. Plaintiff received the data on August 12, 2013.

14 3. On August 29, 2013, Defendants allowed Plaintiffs’ consultant/expert, Todd  
15 Stefan, Vice President of Setec Investigations, to speak directly to Defendants’ designated  
16 person most knowledgeable regarding Defendants’ time punch data (with counsel present  
17 and subject to the mediation privilege).

18 4. The parties are optimistic that they will be able to resolve this threshold issue  
19 without further assistance from the Court. Plaintiffs are currently processing the data and  
20 expect to complete the project within several weeks’ time.

1  
2 **IT IS THEREFORE ACKNOWLEDGED AND AGREED THAT:**

3       5.       Upon this Court's approval, the evidentiary hearing set for September 20,  
4 2013, shall be vacated without prejudice.

5  
6 Dated: September 18, 2013

7 CAPSTONE LAW, APC

8  
9 By                   /s/ Miriam L. Schimmel                  

10 Miriam L. Schimmel  
11 Matthew Theriault

12 Class Counsel for Plaintiffs

13  
14 Dated: September 18, 2013

15 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

16  
17 By                   /s/ Nora K. Stiles                  

18 TRACEY A. KENNEDY  
19 MORGAN P. FORSEY  
20 NORA K. STILES

21 Attorneys for Defendants Taco Bell Corp. and  
22 Taco Bell America, Inc.  
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The evidentiary hearing set for September 20, 2013, shall be vacated without prejudice.

Dated: September 19, 2013

UNITED STATES MAGISTRATE JUDGE