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**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF CALIFORNIA**

**GERALD CARLIN, JOHN RAHM,
PAUL ROZWADOWSKI, and BRIAN
WOLFE, individually and on behalf of
themselves and others similarly situated,**

Plaintiffs,

v.

**DAIRY AMERICA, INC., and
CALIFORNIA DAIRIES, INC.,**

Defendants.

1:09-CV-00430-AWI-GSA

**ORDER VACATING HEARING
DATE OF MAY 13, 2013, AND
TAKING MATTER UNDER
SUBMISSION**

In this action for damages, Defendant California Dairies, Inc. (“Defendant”) has noticed a renewed motion to dismiss each of Plaintiffs’ four complaints consolidated under the above-captioned case number pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure. Hearing on Defendant’s motion to dismiss was scheduled to be held on May 13, 2013. The court has preliminarily reviewed Defendant’s motion, Plaintiffs’ Opposition and Defendant’s reply. The court finds that the press of other matters before the court prevents an adequate review of the legal issues presented within the time normally contemplated in the court’s scheduling order. The court also finds that, at present, Defendant’s motion to dismiss appears to be suitable for decision without oral argument. Local Rule 78-230(h). The court will therefore proceed with consideration of Defendant’s motion to dismiss at the earliest possible time and will notify the parties to reschedule a hearing on the motion if and when the court finds that such hearing would

1 be helpful to the court's determination.

2

3 Therefore, IT IS HEREBY ORDERED that the previously set hearing date of May 13,
4 2013, is VACATED, and no party shall appear at that time. As of May 13, 2013, the Court will
5 take the matter under submission, and will thereafter issue its decision or will notify the parties
6 of the need to reschedule oral argument as the court deems appropriate.

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8 IT IS SO ORDERED.

9 Dated: May 8, 2013



SENIOR DISTRICT JUDGE

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