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9 **UNITED STATES DISTRICT COURT**
10 **EASTERN DISTRICT OF CALIFORNIA**
11 **FRESNO DIVISION**

12 GERALD CARLIN, JOHN RAHM, PAUL
13 ROZWADOWSKI and DIANA WOLFE,
individually and on behalf of themselves and
14 all others similarly situated,

15 Plaintiffs,

16 v.

17 DAIRYAMERICA, INC. and
18 CALIFORNIA DAIRIES, INC.,

Defendants.

Case No. 1:09 CV 00430-AWI (GSA)

CLASS ACTION

**STIPULATION TO AMEND THE
SCHEDULING ORDER; ORDER
THEREON**

1 On this 19th day of September 2014, the parties having so stipulated;

2 WHEREAS, the current Scheduling Order provides that class certification-related
3 discovery shall be completed by November 1, 2014;

4 WHEREAS, on June 30, 2014, Plaintiffs filed leave to amend the complaint to add new
5 parties and claims, which motion was opposed;

6 WHEREAS, Plaintiffs' motion has not yet been ruled upon;

7 WHEREAS, the substance, timing and participants in various upcoming depositions,
8 including the representative class plaintiffs' depositions, will vary depending upon the resolution
9 of the pending motion and proceeding with those depositions before resolution of the pending
10 motion would cause confusion and potentially the need for witnesses to be redeposed;

11 WHEREAS, class representatives are individual family farmers who assert they would
12 suffer substantial prejudice from having to be redeposed;

13 IT IS ORDERED that the Scheduling Order is amended as follows:

14 **1. Class Certification Discovery Cut-Off and Briefing Deadlines.**

15 (a) The deadline for class certification discovery (and the simultaneous deadline for
16 all other non-dispositive motions) shall be extended from November 1, 2014 and November 14,
17 2014 respectively to four months from the date of entry of an Order on Plaintiffs' Motion For
18 Leave To Amend Complaint.

19 (b) The briefing deadlines for class certification will be amended to follow from the
20 class certification discovery cut-off at similar intervals as the original schedule:

21 Plaintiffs' Motion for Class Certification due: 75 days after the class certification
22 discovery cut-off;

23 Defendant(s)' Opposition to Class Certification due: 75 days after Plaintiffs' Motion;

24 Plaintiffs' Reply due: 24 days after Defendants' Opposition

25 A hearing on the Motion for Class Certification will be held approximately one month
26 after the filing of Plaintiffs' Reply on a date that suits the schedule and preference of Magistrate
27 Judge Gary Austin.

1 **2. Class Certification Discovery Pending the Order on Plaintiffs' Motion For Leave to**
2 **Amend Complaint.**

3 A. Depositions

4 In the interest of judicial economy and efficiency, all party depositions (including
5 depositions of entities that plaintiffs' have proposed be added as parties) in the case will be
6 stayed until the Court enters an Order on Plaintiffs' Motion for Leave to Amend Complaint.

7 The parties may proceed with third party discovery and depositions

8 B. Written Discovery

9 Written discovery shall not be stayed and shall continue subject to the amended class
10 certification discovery cut-off.

11 DATED: September 19, 2014

Respectfully submitted,

12 **BERMAN DeVALERIO**

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Dated: September 19, 2014

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9 *Counsel for Defendant DairyAmerica, Inc.*

10 **ORDER**

11 The Courts adopts the parties' stipulation to amend the scheduling order set forth above,
12 with the exception that the Court will set the briefing schedule and hearing date regarding the
13 Plaintiffs' anticipated Motion for Class Certification after District Judge Anthony W. Ishii issues
14 a ruling on the Plaintiffs' pending Motion for Leave to file a Second Amended Consolidated
15 Complaint. (Doc. 155). Accordingly, within 15 days from the date of issuance of Judge Ishii's
16 ruling, the parties shall file a joint report or stipulation setting forth a proposed briefing schedule
17 and hearing date regarding Plaintiffs' Motion for Class Certification. In an abundance of caution,
18 the Court will also set a telephonic status conference in this action on April 1, 2015 at 10:00 a.m.
19 to revisit the matter of setting the briefing schedule and hearing date for Plaintiffs' Motion for
20 Class Certification, if necessary. The Court will either advance or vacate the status conference
21 upon receipt of the parties' proposed briefing schedule following the issuance of Judge Ishii's
22 order on Plaintiffs' pending motion to amend.

23 IT IS SO ORDERED.

24 Dated: September 25, 2014

25 /s/ Gary S. Austin
26 UNITED STATES MAGISTRATE JUDGE