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Attorney for: Intervenor Plaintiff FRANK A. LOGOLUSO FARMS, a California corporation

**UNITED STATES DISTRICT COURT**  
**EASTERN DISTRICT OF CALIFORNIA, FRESNO DIVISION**

ONIONS ETC., INC., and DUDA FARM  
FRESH FOODS, INC.,

Case No.: 1:09-cv-00906-OWW-SMS

## Plaintiffs,

V.

Z & S FRESH, INC., a California corporation;  
Z & S DISTRIBUTING COMPANY, INC., a California corporation; MARTIN J. ZANINOVICH, an individual; LOREN SCHOENBURG, an individual; MARGARET aka MARGE SCHOENBURG, an individual.

**STIPULATION TO EXTEND THE DATE  
ON WHICH TO FILE A MOTION TO  
DETERMINE VALIDITY, PRIORITY OR  
AMOUNT OF PACA CLAIM AND  
ORDER THEREON**

## Defendants.

## AND RELATED COMPLAINTS IN INTERVENTION

Intervening Plaintiff and Claimant, Frank A. Logoluso Farms ("Claimant") filed a PACA claim in this action. Z&S Fresh, Inc., dba Z&S Distributing Company, Inc., Martin J. Zaninovich, Terence Long, PACA Trustee, and Jewel Marketing and Agribusiness, LLC, a California limited liability company, dba Crown Jewels Marketing, LLC, a California limited liability company (collectively "Objectors") filed objections to Claimant's claim. Claimant and Objectors stipulate as follows:

## STIPULATION

1. On May 22, 2009, Plaintiffs Onions, Etc., Inc. and Duda Farm Fresh Foods, Inc. ("Plaintiffs") commenced the instant action against Defendants Z&S Fresh, Inc., Martin J. Zaninovich, Loren Schoenburg, and Margaret aka Marge Schoenburg (the "Defendants") to enforce the trust provision of section 5(c) of the Perishable Agricultural Commodities Act, 7 U.S.C. 499e(c) ("PACA"). Among other relief, Plaintiffs sought to have this Court grant a request for a Preliminary Injunction against Defendants.

2. On June 10, 2009, Plaintiffs filed their Amended Motion for Issuance of Preliminary Injunction, to Consolidate and for Entry of PACA Claims Procedure Order seeking to add a PACA claims procedure to the Preliminary Injunction.

3. On June 24, 2009, a Stipulated Order Granting Plaintiffs' Second Amended Motion for a Preliminary Injunction Order, Establishing a PACA Claims Procedure and Appointing Terence J. Long as PACA Trustee (the "Order") was filed.

4. Pursuant to the Order, on July 13, 2009, Claimant filed its PACA Proof of Claim for \$1,536,884.15 ("Claim"), together with Claimant's Amended Complaint in Intervention.

5. Pursuant to the Order, on July 23, 2009, Objectors filed their Objections to Claimant's Claim.

6. Pursuant to the Order, on August 3, 2009, Claimant filed a response to the Objections.

7. Under the Order, claimants and objecting parties are to exercise their best efforts to resolve any objections to the PACA Proofs of Claim. In the event the parties are unable to resolve any disputes, the PACA claimant must file a motion by Monday, August 10, 2009, to determine the validity, priority or amount of its alleged PACA Claim (the "Motion").

8. Objectors and Claimant have been meeting and conferring regarding objections to Claimant's Claim and have a good faith belief that they will resolve the disputes. In order to facilitate the efforts to resolve the subject objections, the Objectors and Claimant request that the date on which to file the Motion be extended to Monday, August 17, 2009.

9. Without waiving any rights or defenses, the Objectors and Claimant agree to the extension of the date on which to file the Motion to Monday, August 17, 2009.

DATED: August 7, 2009

Respectfully submitted,  
WALTER & WILHEM LAW GROUP,  
A PROFESSIONAL CORPORATION

By: \_\_\_\_\_ /s/  
Norman D. Morrison IV, Attorneys for Z&S  
Fresh, Inc. and Martin J. Zaninovich

DATED: August 7, 2009

Respectfully submitted,  
McCORMICK, BARSTOW, SHEPPARD,  
WAYTE & CARRUTH LLP

DATED: August 7, 2009

Respectfully submitted,  
**SAGASER, JONES & HELSLEY**

DATED: August 7, 2009

Respectfully submitted,  
PERKINS, MANN & EVERETT,  
A PROFESSIONAL CORPORATION

**Stipulation to Extend the Date on Which to File a Motion to Determine Validity, Priority or Amount of  
PACA Claim and Order Thereon**

## ORDER

Having read the above Stipulation and good cause appearing,

IT IS HEREBY ORDERED that the Stipulation is approved in its entirety and that the date on which Claimant is to file the Motion is extended from Monday, August 10, 2009, to Monday, August 17, 2009.

IT IS SO ORDERED.

Dated: August 7, 2009

/s/ OLIVER W WANGER  
OLIVER W. WANGER, Judge  
United States District Court

## PROOF OF SERVICE

STATE OF CALIFORNIA  
COUNTY OF FRESNO

I am employed in the County of Fresno, State of California. I am over the age of 18 and not a party to the within action; my business address is 2222 W. Shaw Avenue, Suite 202, Fresno, California 93711.

On August 7, 2009, I served the document(s) described as **STIPULATION TO EXTEND THE DATE ON WHICH TO FILE A MOTION TO DETERMINE VALIDITY, PRIORITY OR AMOUNT OF PACA CLAIM AND ORDER THEREON** on the interested party(ies) in this action by placing true copies thereof enclosed in sealed envelope(s) and/or package(s) addressed as follows:

SEE EXHIBIT "A" FOR MAILING LIST

**BY MAIL:** I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Fresno, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in the affidavit.

**BY FACSIMILE:** I caused said document(s) to be transmitted by facsimile pursuant to Rule 2.306 of the California Rules of Court. The telephone number of the sending facsimile machine was (559) 447-5600. The name(s) and facsimile machine telephone number(s) of the person(s) served are set forth in the service list. The sending facsimile machine (or the machine used to forward the facsimile) issued a transmission report confirming that the transmission was complete and without error. The date and time of the transmission is set forth in a copy of that report that is attached to this declaration.

**BY PERSONAL SERVICE:** I caused such envelope(s) to be delivered by hand to the offices of the addressee(s).

**BY ELECTRONIC MAIL:** *By filing electronically with the U.S. District Court, Eastern Division, and opting to receive service by electronic mail, service of this document is hereby deemed served.*

(State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

(Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on August 7, 2009, at Fresno, California.

/s/ Karen L. Kearns  
KAREN L. KEARNS

**EXHIBIT "A"**  
**MAILING LIST**

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