

The Honorable Michael J. Seng

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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA AT FRESNO**

SABAS ARREDONDO, JOSE CUEVAS,
HILARIO GOMEZ, IRMA LANDEROS, and
ROSALBA LANDEROS individually, and on
behalf of all others similarly situated,

Plaintiffs,

v.

DELANO FARMS COMPANY, a Washington
State Corporation; CAL-PACIFIC FARM
MANAGEMENT, L.P.; T&R BANGI'S
AGRICULTURAL SERVICES, INC., and
DOES 1 through 10, inclusive,

Defendants.

NO. 1:09-cv-01247-MJS

**STIPULATION AND ORDER
APPOINTING NEUTRAL**

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I. STIPULATION

The parties to the above-referenced matter stipulate to the appointment of Kurtzman Carson Consultants (“KCC”), which will serve as a Court-appointed third-party administrator and perform the functions identified in paragraphs 5–7, below, with respect to the pilot study described in the July 7, 2014 Joint Scheduling Report (Doc. 326) and the Declaration of Joseph A. Krock, Ph.D. (Doc. 337), which the Court allowed to proceed in the August 19, 2014 Order Regarding Discovery Schedule (Doc. 330) and the October 10, 2014 Order Denying Motion for Protective Order (Doc. 342) (hereinafter, the “Pilot Study”).

In particular, the parties stipulate as follows:

1. General Purpose. KCC’s functions shall be undertaken in a manner calculated to ensure that the Pilot Study proceeds: (a) free from bias; (b) in a timely and cost-effective manner; and (c) with due regard for the schedules of all concerned parties, including the deponents, and their counsel.

2. Initial Planning Conference. As soon as practicable following the entry of this Order, the parties shall attempt in good faith to meet no later than December 19, 2014 with suitable representatives of KCC, in person at a mutually convenient location, to discuss this Order, the scheduling of KCC’s work, any questions raised by KCC, designated points of contact and modes of communication, and any other matters bearing on KCC’s ability to effectively perform its functions consistent with the mandate set forth in paragraph 1, above. The parties may bring their designated experts to this meeting. The parties shall prepare a written memorandum setting forth the matters agreed to at the meeting, which need not be filed with the Court but may be referenced in the event of a dispute.

3. Pilot Study List. Within 10 days of the initial planning conference described in paragraph 2, above, Defense counsel shall simultaneously transmit to both KCC’s designated representative and to Plaintiffs’ counsel the list of 192 fieldworkers whom Defendants seek to

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depose in the Pilot Study,¹ which may be supplemented as appropriate to ensure that 192
fieldworkers are eventually deposed. The initial list of 192 and any additions to the list are
collectively referred to as the “Pilot Study List.”

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4. Schedule. In consultation with KCC, the parties shall develop a mutually
agreeable schedule for depositions, to begin not sooner than January 19, 2015 and continue
until 196 fieldworker depositions have been completed (including the 4 already completed). It
is expected that depositions will be scheduled in blocks of approximately one week. The
blocks may be scheduled on a rolling basis, so that a block may commence before subsequent
blocks have been scheduled. The parties understand and agree that no scheduling will be ideal,
and that more than one lawyer from each side must be available to participate in depositions so
that the Pilot Study may be completed in a reasonable period of time. Plaintiffs’ counsel shall
have reasonable notice of the deposition of any particular fieldworker. Generally, two weeks’
notice is deemed reasonable, but the parties understand and agree that such notice will not
always be practicable for every deposition—for instance, due to cancellations, difficulty in
effecting service, or other circumstances beyond the control of the parties or KCC—and that
some flexibility will be required in order to use time efficiently and to respond to the needs and
availability of deponents. If for any reason a “late substitution” of a deponent is necessary,
Plaintiffs’ counsel will have a reasonable opportunity to meet with the absent class member
before the deposition, even if this takes place immediately before the deposition.

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5. Location and Service Work. KCC shall undertake reasonable and diligent
efforts to locate and obtain current contact information for all fieldworkers on the Pilot Study
List and to serve them with subpoenas for depositions according to the agreed schedule (the
“Location and Service Work”). These efforts may include, but are not necessarily limited to,
conducting various records searches, including “skip-traces” or similar address-locator
searches; attempting to call fieldworker deponents; attempting to contact fieldworker deponents

¹ This represents the 196 proposed less the 4 already taken.

1 in person, either at home or at work; contacting current or prior employers; and contacting
2 friends, family, or co-workers, but KCC must at all times be sensitive to the manner in which it
3 contacts workers and the fact that the fieldworkers it is contacting may face various
4 immigration-related issues and may be unfamiliar with processes such as these. It is
5 understood that depositions and the Location and Service Work may proceed simultaneously,
6 such that the depositions may begin before attempts have been made to locate and/or serve all
7 fieldworkers on the Pilot Study List.

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9 **6. Script and FAQ.** In contacting fieldworker deponents, KCC shall utilize the
10 script and answers to frequently asked questions attached as Exhibit A when addressing the
11 matters therein. If the script or answers prove in practice to be incomplete, confusing, or
12 counterproductive in some respect—for instance, if there are frequent questions that are not
13 addressed—KCC will notify counsel in writing and seek additional instruction.

14 **7. Reporting.** KCC shall keep detailed records of its activities in connection with
15 the Location and Service Work. KCC shall report to the parties regarding the status of the
16 Location and Service Work periodically as it deems reasonable under the circumstances or
17 upon the reasonable request of any party. The reports shall include, as appropriate (a)
18 identification of fieldworkers on Pilot Study List who have been located and served and the
19 times of their respective depositions; (b) identification of fieldworkers on the Pilot Study List
20 who KCC believes cannot be located or served and why; (c) what additional efforts, if any,
21 might be undertaken to complete the Location and Service Work, the likely utility of those
22 efforts, and an estimate of the additional time required to undertake them. The parties and/or
23 KCC shall provide to the Court any reports ordered by the Court.

24 **8. Contact with Deponents.** Neither Plaintiffs' counsel, nor any agent or
25 employee of Plaintiffs' counsel or the class, nor any class member shall contact any
26 fieldworker included on the Pilot Study List before KCC notifies counsel for the parties that it
27 has contacted the fieldworker and served or attempted to serve the fieldworker with a

1 subpoena. If a fieldworker on the Pilot Study List contacts Plaintiffs' counsel before KCC
2 provides such notice, Plaintiffs' counsel may speak with the fieldworker but must promptly
3 notify KCC and Defendants' counsel of the contact in writing, including identification of the
4 fieldworker, identification of the date, time, and manner of the contact (e.g., in person, by
5 telephone, or by email), and a general description of the subject matter of the communication.
6 No party will attempt to dissuade any fieldworker from attending a deposition or instruct any
7 fieldworker to disobey a subpoena; moreover, the parties shall take steps to prevent direct, or
8 even indirect, unintended, influencing of witnesses where contacts are permitted under this
9 Stipulation and Order.

10 **9. Fees and Costs.** The fees and costs charged by KCC shall be the responsibility
11 of Defendants. KCC will contract directly with Delano Farms for its services and shall send
12 invoices to counsel for Delano Farms for payment. Plaintiffs' counsel shall be provided copies
13 of all written communications, including invoices or contracts, with Defendant's counsel to
14 ensure neutrality in the performance of its duties.

15 SO STIPULATED:

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17 **SAVITT BRUCE & WILLEY LLP**

GRISWOLD, LASALLE, COBB, DOWD & GIN, LLP

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II. ORDER

Good cause appearing the above Stipulation, including its referenced Exhibit A, is accepted, approved and adopted as the Order of this Court.

IT IS SO ORDERED.

Dated: December 15, 2014

/s/ Michael J. Seng
UNITED STATES MAGISTRATE JUDGE