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

BIO-LIVESTOCK INTERNATIONAL, INC., 1: 10-CV-01439 LJO JLT

Plaintiff,

ORDER GRANTING LEAVE TO FILE
AMENDED COMPLAINT

v.

A.L. GILBERT CO., INC.

Defendant.

Before the Court is an Amended Complaint filed by Plaintiff Bio-Livestock International, Inc. (“Plaintiff”), as Exhibit A to the Joint Scheduling Report on November 10, 2010. (Doc. 41).

BACKGROUND

Plaintiff filed a complaint in the Supreme Court of New York in the County of Rockland on February 23, 2010. (Doc. 1 at 1). Defendant A.L. Gilbert Company, Inc. (“Defendant”) filed its Notice of Removal on March 25, 2010. *Id.* Defendant’s motion to dismiss for lack of personal jurisdiction was granted, and the case was transferred to this Court on August 3, 2010. (Doc. 22). Defendant filed its Answer to the Complaint on October 29, 2010.

On November 17, 2010, the Court conducted the scheduling conference in this matter. At the time, the parties agreed orally that Plaintiff could file its proposed first amended complaint.

Under Fed.R.Civ.P. 15(a), a party may amend a pleading once as a matter of course within 21

1 days of service, or if the pleading is one to which a response is required, 21 days after service of the
2 responsive pleading. “In all other cases, a party may amend its pleading only with the opposing
3 party’s written consent or the court’s leave.” Fed.R.Civ.P. 15(a)(2). Here, Defendant filed an
4 answer on October 29, 2010. (Doc. 40).

5 Based upon the oral stipulation of the parties that Plaintiff may amend the complaint, **IT IS**
6 **HEREBY ORDERED** that:

- 7 1. Leave to file the amended complaint (Doc. 40, Ex. 1) is GRANTED;
- 8 2. Plaintiff is ordered to file its First Amended Complaint no later than
9 December 1, 2010.

10
11 IT IS SO ORDERED.

12 Dated: November 18, 2010

13 /s/ Jennifer L. Thurston
14 UNITED STATES MAGISTRATE JUDGE