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16 **UNITED STATES DISTRICT COURT**  
17 **EASTERN DISTRICT OF CALIFORNIA**  
18 **FRESNO DIVISION**

19 FOSTER POULTRY FARMS,

20 Plaintiff,

21 vs.

22 ALKAR-RAPIDPAK-MP EQUIPMENT, INC.  
23 and DOES 1-10,

24 Defendants.  
25  
26  
27  
28

) No. 1:11-CV-00030-AWI-SMS  
)  
)

**ORDER GRANTING STIPULATION TO  
EXTEND TIME FOR PLAINTIFF TO FILE  
FIRST AMENDED COMPLAINT**

) Presiding: Hon. Anthony H. Ishii  
) Action Filed: December 13, 2010  
) Trial Date: None Set  
)  
)  
)

1 The Court, having considered the Parties' Stipulation to Extend Time for Plaintiff to File First  
2 Amended Complaint, which stated as follows:

3 Plaintiff Foster Poultry Farms ("Plaintiff") and Defendant Alkar-RapidPak-MP Equipment, Inc.  
4 ("Defendant") (collectively referred to herein as the "Parties") hereby agree and stipulate as follows:

5 WHEREAS, on June 8, 2011, the Court issued an order granting Defendant's Motion to  
6 Dismiss Plaintiff's complaint and allowing Plaintiff leave to amend as to the First, Second, Third, and  
7 Fifth causes of action;

8 WHEREAS, the Court's June 8, 2011 Order provided that Plaintiff must file any amended  
9 complaint within twenty-one (21) days of the filing of the Order, such that the amended complaint is  
10 currently due June 29, 2011;

11 WHEREAS, in granting Defendant's motion to dismiss Plaintiff's First, Second, and Third  
12 causes of action, the Court determined, among other things, that those claims were time-barred  
13 pursuant to California Commercial Code Section 2725;

14 WHEREAS, Plaintiff respectfully contends that the Court's application of California  
15 Commercial Code Section 2725 in this was case was in error and intends to file a motion for  
16 reconsideration, which will be set for hearing on August 15, 2011;

17 WHEREAS, Defendant believes that there is no basis for a motion for reconsideration and  
18 accordingly intends to oppose Plaintiff's motion for reconsideration;

19 WHEREAS, for efficiency and practicability reasons and to ease the burden on the Court, the  
20 parties agree that the motion for reconsideration should be decided before Plaintiff is required to file  
21 any amended complaint, so that among other things Defendant is not forced to file a motion to dismiss  
22 the amended complaint before the Court rules on the motion for reconsideration;

23  
24 **NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED** by and between the  
25 Parties, through their undersigned counsel of record, subject to the approval of the Court, as follows:  
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27  
28

1 Plaintiff's deadline to file an amended complaint shall be continued from June 29, 2011 to ten  
2 (10) days after the Court issues its order on Plaintiff's motion for reconsideration.

3  
4  
5 IT IS SO ORDERED.

6 Dated: June 20, 2011

  
7 CHIEF UNITED STATES DISTRICT JUDGE