1 2	McGLINCHEY STAFFORD Adam Hamburg (SBN 247127) 18201 Von Korman Avanua, Suita 350			
2 3	18201 Von Karman Avenue, Suite 350 Irvine, California 92612			
	Telephone: (949) 381-5900 Facsimile: (949) 271-4040			
4	Email: ahamburg@mcglinchey.com			
5	Attorneys for <i>Plaintiff</i> , Linde, LLC			
6	Russell K. Ryan, SBN 139835			
7	MOTSCHIEDLER, MICHAELIDES, WISHON BREWER & RYAN, LLP	,		
8	1690 West Shaw Avenue, Suite 200 Fresno, California 93711			
9	Telephone (559) 439-4000 Facsimile (559) 439-5654			
10	Attorneys for Defendant, Valley Protein, LLC			
11				
12	UNITED STATES DISTRICT COURT			
13	EASTERN DISTRICT OF CALI	FORNIA, FRESNO DIVISION		
14				
15	LINDE, LLC,	Case No.: 1:16-CV-00527-DAD-EPG		
16	Plaintiff,	JOINT STIPULATION TO CONTINUE		
17	V.	HEARING AND TRIAL DATES; DECLARATIONS IN SUPPORT		
18	VALLEY PROTEIN, LLC, , and DOES 1 to 10;	THEREOF; AND ORDER THEREON		
19	Defendants.			
20				
21				
22				
23				
24				
25				
26				
27				
28				
	1			

7

10

11

13

17

19

This Joint Stipulation for Continuance of Hearing and Trial Dates (the "Stipulation") is entered into by plaintiff LINDE, LLC ("Plaintiff") and defendant VALLEY PROTEIN, LLC ("Defendant" and together with Plaintiff, the "Parties"), by and through their respective attorney of record based on the following facts:

RECITALS

Pursuant to the Status Conference held on January 23, 2018, the Court amended the Scheduling Order in the subject case as follows:

> Non-Expert Discovery was to be completed by March 2, 2018; a.

b. Dispositive Motion filing Deadline set for April 6, 2018;

c. Pretrial Conference was continued from June 4, 2018 to August 6, 2018; and

d. The Jury Trial was continued from August 7, 2018 to October 30, 2018.

Additionally, on February 13, 2018, the Court issued a Minute Order setting a Settlement Conference for June 28, 2018.

On February 26, 2018, counsel for Defendant took the deposition of Plaintiff's representative. While the deposition of Defendant's representative was set for February 27, 2018, the deposition was ultimately continued and occurred on March 14, 2018.

In late March and early April 2018, counsel for Plaintiff reached out to counsel for Defendant in an effort to meet and confer prior to the filing of Plaintiff's Motion for Summary Judgment. On April 5, 2018, Plaintiff's counsel was notified by the office of Defendant's counsel that Defendant's counsel, Russell K. Ryan was recently involved in a serious accident, had undergone extensive surgery, and would be out of the office for an extended period of time.

As a result of Mr. Ryan's accident, counsel for the parties were unable to meet and confer prior to the April 6, 2018 Dispositive Motion deadline. Accordingly, while Plaintiff filed its Motion for Summary Judgment on April 6, 2018, counsel for the Parties agreed that if the Court agreed to extend the deadlines, hearings and trial dates set forth in the Scheduling Order, Plaintiff would withdraw the Motion for Summary Judgment until after the Parties have had sufficient time to meet and confer regarding the issues contained in the Motion. Currently, the Motion is set for hearing on June 7, 2018.

1				
2	6. As set forth more thoroughly in the Declaration of Mr. Ryan, which is attached			
3	hereto, as a result of the injuries sustained by Mr.			
4	March 26, 2018 and will likely be out of the office	March 26, 2018 and will likely be out of the office until approximately July 16, 2018.		
5	STIP	<u>ULATION</u>		
	7. Based on the foregoing, in an effort	t to accommodate Mr	. Ryan's recovery and so as	
6 7	not to prejudice Defendant, the Parties hereby stipu	not to prejudice Defendant, the Parties hereby stipulate and agree to continue the following deadlines		
7	and dates, subject to the availability and approval o	f the Court:		
8		Current Date	New Date	
9	Filing of Dispositive Motion deadline	April 6, 2018	August 3, 2018	
10	Settlement Conference	June 28, 2018	October 25, 2018	
11	Pretrial Conference	August 6, 2018	December 3, 2018	
12	Jury Trial	October 30, 2018	February 25, 2019	
13		,		
14		LINCHEY STAFFC	עעע	
15	DATED: April 27, 2018 McG	LINCHET STAFFC	JKD	
16				
17		/ <u>s/ Adam S. Hamburg</u> ADAM S. HAMBURO		
18		meys for <i>Plaintiff</i> , LI		
19				
20		SCHIEDLER, MICH		
21	WISH	ION, BREWER & R	YAN, LLP	
22	By: _/:	s/ Russell K. Ryan		
23	RUSSELL K. RYAN, Attorneys for Defendant VALLEY PROTEIN, LLC		•	
24		ejenuani VALLETT	KOTEIN, LLC	
25				
26 27				
27				
28				

1	DECLARATION OF ADAM HAMBURG		
2	I, Adam Hamburg, declare:		
3	1. I am a partner with McGlinchey Stafford, and the attorney of record for the Plaintiff		
4 5	in the above-entitled action. I have prepared this Declaration as evidence in support of the parties'		
5 6	Joint Stipulation for Continuance of Hearing and Trial Dates (the "Stipulation"). The matters set		
7	forth herein are true based upon my personal knowledge and, if called to testify in this matter, I		
8	could and would competently testify under oath to the facts and circumstances stated herein.		
9	2. Pursuant to the Status Conference held on January 23, 2018, the Court amended the		
10	Scheduling Order in the subject case as follows:		
10	a. Non-Expert Discovery was to be completed by March 2, 2018;		
11	b. Dispositive Motion filing Deadline set for April 6, 2018;		
13	c. Pretrial Conference was continued from June 4, 2018 to August 6, 2018; and		
14	d. The Jury Trial was continued from August 7, 2018 to October 30, 2018.		
15	2. Additionally, on February 13, 2018, the Court issued a Minute Order setting a		
16	Settlement Conference for June 28, 2018.		
17	3. On February 26, 2018, counsel for Defendant, Russell K. Ryan took the deposition of		
18	Plaintiff's representative. While the deposition of Defendant's representative was set for the		
19	following day, as a result of a health issue, I was unable to proceed with the deposition on February		
20	27, 2018, and the deposition was ultimately continued and occurred on March 14, 2018.		
21	4. In late March and early April 2018, I contacted Mr. Ryan in an effort to meet and		
22	confer with Mr. Ryan prior to the filing of Plaintiff's Motion for Summary Judgment. While I was		
23	unable to reach Mr. Ryan, on April 5, 2018, I spoke with Mr. Ryan's assistant, who notified me that		
24	Mr. Ryan was recently involved in a serious accident, had undergone extensive surgery, and would		
25	be out of the office for an extended period of time.		
26	5. As a result of Mr. Ryan's accident, I and Mr. Ryan were unable to meet and confer		
27	prior to the April 6, 2018 Dispositive Motion deadline. Accordingly, while my office filed		
28	Plaintiff's Motion for Summary Judgment on April 6, 2018, I and Mr. Ryan subsequently agreed that if the Court agreed to extend the deadlines bearings and trial dates set forth in the Scheduling Order		
	if the Court agreed to extend the deadlines, hearings and trial dates set forth in the Scheduling Order,		

I would withdraw the Motion for Summary Judgment until after the parties have had sufficient time to meet and confer regarding the issues contained in the Motion. Currently, the Motion is set for hearing on June 7, 2018.

6. I have been in contact with Mr. Ryan via email, and Mr. Ryan has advised that he will likely be out of the office recovering from his injuries for an extended period of time. Accordingly, in order to accommodate Mr. Ryan, I and my client are agreeable to extending the relevant deadlines and continuing the hearing and trial dates as set forth in the Stipulation, subject to the availability and approval of the Court.

I declare under penalty of perjury under the laws of the Unites States of America that the foregoing is true and correct to the best of my knowledge, information and belief.

Executed on this 27th day of April, 2018, at Irvine, California.

/s/ Adam Hamburg

DECLARATION OF RUSSELL K. RYAN

1. I am a partner in the law firm of Motschiedler, Michaelides, Wishon, Brewer & Ryan, LLP, and the attorney of record for Valley Protein, LLC. I make the following declaration of my own personal knowledge and if called upon to testify, could and would competently testify thereto.

2. On March 26, 2018, my family and I were hoping to have a relaxing spring break, doing some work while enjoying the beautiful Southern Oregon Coast. We got up to Brookings, Oregon late Saturday but by mid-day, I had a bit of an accident. While attempting to jump over a small stream on the beach the stream bank collapsed, I fell awkwardly and broke bones in BOTH feet and legs. The right has two fractures to the tibia, one to the fibula and the fibula is dislocated and no longer even over the foot. In the left foot I have a calcaneus (heel bone) fracture. I had two surgeries before we left the coast and had the more elaborate surgery on my right when I returned to Fresno. It was quite the ordeal just getting me off the beach as there was no vehicle access. It took two hours to carry me over sand and stream, four flights of stairs then dragging me 200 yards through a narrow forest area to the ambulance.

3. What this means going forward is a total of at least 12 weeks of no weight bearing on the left foot and 8-10 weeks on the right, with 6-9 months (perhaps longer) before everything gets 100% back to normal, or at least my new normal.

4. I am learning how to navigate with a wheelchair and have a new appreciation for my friends who have to deal with such issues on a regular basis.

5. There is no one else in my office that can substitute in for me at the hearing. I am the only seasoned litigator in the firm.

6. For these reasons I will be unable to physically participate in the upcoming trial and respectfully request that it be continued a few months so that I can be present to represent my client.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 27th day of April 2018 at Fresno, California.

<u>/s/Russell K. Ryan</u> Russell K. Ryan

1	PROOF OF SERVICE		
2 3 4 5 6	STATE OF CALIFORNIA)) ss. COUNTY OF ORANGE) I, Stephanie Elizondo, declare: I am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action. My business address is 18201 Von Karman Ave., Suite 350, Irvine, California 92612.		
7 8 9	On April 27, 2018, I served the document(s) described as JOINT STIPULATION TO CONTINUE HEARING AND TRIAL DATES; DECLARATIONS IN SUPPORT THEREOF; AND ORDER THEREON as follows:		
9 10	BY MAIL : As follows:		
11	FEDERAL – I deposited such envelope in the U.S. mail at Irvine, California, with postage thereon fully prepaid,		
12 13 14	BY FACSIMILE: I caused such documents to be transmitted to the telephone number of the addressee listed on the attached service list, by use of facsimile machine telephone number. The facsimile machine used complied with California Rules of Court, Rule 2004 and no error was reported by the machine. Pursuant to California Rules of Court, Rule 2006(d), a transmission record of the transmission was printed.		
15 16 17 18	BY CM/ECF NOTICE OF ELECTRONIC FILING: I caused said document(s) to be served by means of this Court's Electronic transmission of the Notice of Electronic Filing through the Court's transmission facilities, to the parties and/or counsel who are registered CM/ECF users set forth in the service list obtained from this Court. Pursuant to Electronic Filing Court Order, I hereby certify that the above documents(s) was uploaded to the website and will be posted on the website by the close of the next business day and the webmaster will give e-mail notification to all parties.		
19 20 21	BY EMAIL SERVICE as follows: By email or electronic transmission: Based on any agreement between the parties and/or as a courtesy, I sent the document(s) to the person(s) at the email address(es) listed on the service list. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.		
22 23	FEDERAL: I declare that I am employed in the office of a member of the State Bar of this Court at whose direction the service was made.		
24	Executed on April 27, 2018, at Irvine, California.		
25			
26	Stephanie Elizondo		
27			
28			

1 2	SERVICE LIST USDC, Eastern District of California Case No. 1:16-cv-00527-DAD-EPG LINDE, LLC v VALLEY PROTEIN, LLC File # 103174.0015		
3			
4	Russell K. Ryan, Esq. MOTSCHIEDLER, MICHAELIDES, WISHON, BREWER & RYAN, LLP 1690 W. Shaw Ave., Suite 200	Attorneys for Defendant VALLEY PROTEIN, LLC	
5		Tel.: (559) 439-4000	
6	Fresno, CA 93711	Fax: (559) 439-5654 Email: rkr@mmwbr.com	
7		crystal@mmwbr.com	
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			
26			
27			
28			

1			
2			
3			
4			
5			
6			
7	UNITED STATES D	ISTRICT COURT	
8	EASTERN DISTRICT OF CALIFORNIA		
9			
10	LINDE, LLC,	Case No.: 1:16-CV-00527-DAD-EPG	
11	Plaintiff,	ORDER MODIFYING SCHEDULING	
12	V.	ORDER	
13	VALLEY PROTEIN, LLC and DOES 1 to 10,		
14	Defendants.		
15 16			
10	The Court having considered the foregoing	Stimulation and finding good aquas haraby	
18	The Court, having considered the foregoing	Supulation and finding good cause, hereby	
19	orders as follows: 1. The Dispositive Motion deadline shall be continued from April 6, 2018, to August 7, 2018.		
20	2. The Settlement Conference shall be continued from June 28, 2018, to November 8, 2018, at		
21	 1:00 pm. The Pretrial Conference shall be continued from August 6, 2018, to December 3, 2018, at 		
22	1:30 pm.		
23	4. The Jury Trial shall be continued from Octob	per 30, 2018, to February 26, 2019, at 8:30 am	
24			
25	IT IS SO ORDERED.		
26	Dated: May 7, 2018	18/ Encir P. Grosp	
27	UI	NITED STATES MAGISTRATE JUDGE	
28			