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12 **UNITED STATES DISTRICT COURT**  
13 **EASTERN DISTRICT OF CALIFORNIA, FRESNO DIVISION**  
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15 LINDE, LLC,  
16 Plaintiff,  
17 v.  
18 VALLEY PROTEIN, LLC, , and DOES 1 to 10;  
19 Defendants.

Case No.: 1:16-CV-00527-DAD-EPG

**JOINT STIPULATION TO CONTINUE  
HEARING AND TRIAL DATES;  
DECLARATIONS IN SUPPORT  
THEREOF; AND ORDER THEREON**

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

5 **RECITALS**

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

- 8 a. Non-Expert Discovery was to be completed by March 2, 2018;  
9 b. Dispositive Motion filing Deadline set for April 6, 2018;  
10 c. Pretrial Conference was continued from June 4, 2018 to August 6, 2018; and  
11 d. The Jury Trial was continued from August 7, 2018 to October 30, 2018.

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

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

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

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



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**DECLARATION OF ADAM HAMBURG**

I, Adam Hamburg, declare:

1. I am a partner with McGlinchey Stafford, and the attorney of record for the Plaintiff in the above-entitled action. I have prepared this Declaration as evidence in support of the parties' Joint Stipulation for Continuance of Hearing and Trial Dates (the "Stipulation"). The matters set forth herein are true based upon my personal knowledge and, if called to testify in this matter, I could and would competently testify under oath to the facts and circumstances stated herein.

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

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

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

3. On February 26, 2018, counsel for Defendant, Russell K. Ryan took the deposition of Plaintiff's representative. While the deposition of Defendant's representative was set for the following day, as a result of a health issue, I was unable to proceed with the deposition on February 27, 2018, and the deposition was ultimately continued and occurred on March 14, 2018.

4. In late March and early April 2018, I contacted Mr. Ryan in an effort to meet and confer with Mr. Ryan prior to the filing of Plaintiff's Motion for Summary Judgment. While I was unable to reach Mr. Ryan, on April 5, 2018, I spoke with Mr. Ryan's assistant, who notified me that Mr. 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.

5. As a result of Mr. Ryan's accident, I and Mr. Ryan were unable to meet and confer prior to the April 6, 2018 Dispositive Motion deadline. Accordingly, while my office filed 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, hearings and trial dates set forth in the Scheduling Order,

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

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

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

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

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13 /s/ Adam Hamburg \_\_\_\_\_  
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2 **DECLARATION OF RUSSELL K. RYAN**

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

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

16 3. What this means going forward is a total of at least 12 weeks of no weight bearing on  
17 the left foot and 8-10 weeks on the right, with 6-9 months (perhaps longer) before everything gets  
18 100% back to normal, or at least my new normal.

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

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

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

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

27 Executed this 27<sup>th</sup> day of April 2018 at Fresno, California.

28 /s/Russell K. Ryan  
Russell K. Ryan







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

LINDE, LLC,  
  
                                Plaintiff,  
  
                                v.  
  
VALLEY PROTEIN, LLC and DOES 1 to 10,  
  
                                Defendants.

Case No.: 1:16-CV-00527-DAD-EPG  
  
**ORDER MODIFYING SCHEDULING  
ORDER**

The Court, having considered the foregoing Stipulation and finding good cause, hereby orders as follows:

1. The Dispositive Motion deadline shall be continued from April 6, 2018, to August 7, 2018.
2. The Settlement Conference shall be continued from June 28, 2018, to November 8, 2018, at 1:00 pm.
3. The Pretrial Conference shall be continued from August 6, 2018, to December 3, 2018, at 1:30 pm.
4. The Jury Trial shall be continued from October 30, 2018, to February 26, 2019, at 8:30 am

IT IS SO ORDERED.

Dated: May 7, 2018

/s/ Eric P. Grogan  
UNITED STATES MAGISTRATE JUDGE