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Attorneys for Defendant and Counter-Plaintiff
15 **SAPUTO DAIRY FOODS USA, LLC**

16 UNITED STATES DISTRICT COURT

17 EASTERN DISTRICT OF CALIFORNIA, FRESNO DIVISION

18 GALLO CATTLE COMPANY d/b/a JOSEPH
GALLO FARMS, a California limited
19 partnership,

20 Plaintiff,

21 v.

22 SAPUTO DAIRY FOODS USA, LLC, a
Delaware limited liability company,

23 Defendant.
24

Case No. 1:16-cv-01673-LJO-EPG

**STIPULATION AND [PROPOSED]
ORDER TO AMEND THE
SCHEDULING ORDER**

**HON. ERICA P. GROSJEAN
U.S. MAGISTRATE JUDGE**

Action Filed: October 3, 2016
Trial Date: June 5, 2018

25 AND RELATED COUNTER-CLAIMS.
26

27 Plaintiff and Counter-Defendant, GALLO CATTLE COMPANY d/b/a JOSEPH GALLO
28 FARMS (“Gallo”) and Defendant and Counter-Plaintiff SAPUTO DAIRY FOODS USA, LLC

1 (“Saputo”) respectfully submit this stipulated request that the Court grant a second, limited
2 extension of the discovery period set forth in the Amended Scheduling Conference Order (*see*
3 ECF 23). In support of this stipulation, the parties state as follows:

4 1. The Court set a pretrial schedule in this case on January 24, 2017 (ECF 15), and
5 discovery opened on February 10, 2017 with the parties’ exchange of Fed. R. Civ. P. 26(a) Initial
6 Disclosures. Thereafter the parties have mutually responded to written discovery and produced
7 documents in response to requests for production. No depositions have yet taken place nor are any
8 scheduled at present.

9 2. Throughout the fact discovery period, the parties have informally discussed
10 settlement in good faith without achieving a resolution on their own. The parties engaged in a
11 mediation session before the Hon. James A. Ardaiz (Ret.) in Fresno, California on June 30, 2017.
12 Representatives from both parties with full settlement authority were present at the mediation.
13 The mediation was productive and the parties are hopeful that a formal resolution can be reached
14 within the next thirty (30) days. The parties are continuing to engage in settlement discussions,
15 and the Hon. James A. Ardaiz has agreed to continue to participate in the process.

16 3. On June 9, 2017, at the parties’ request, the Court amended the Scheduling
17 Conference Order governing the pretrial phase of this action to extend the dates for the Non-
18 Expert Discovery Cutoff, Expert Disclosure, Rebuttal Expert Disclosure and Expert Discovery
19 Cutoff in order to facilitate the June 30, 2017 mediation. (*See* ECF No. 21.)

20 4. On July 10, 2017, at the parties’ request, the Court again amended the Scheduling
21 Conference Order governing the pretrial phase of this action to extend the dates for the Non-
22 Expert Discovery Cutoff, Expert Disclosure, Rebuttal Expert Disclosure and Expert Discovery
23 Cutoff in order to allow the parties to continue discussing settlement. (*See* ECF No. 23.)

24 5. On August 8, 2017, the parties appeared at the Joint Mid-Discovery Status
25 Conference in this matter. Among other things, the parties represented to the Court that they were
26 continuing to discuss settlement and that they may be requesting a further extension of the
27 discovery deadlines in order to allow these negotiations to continue. The Court indicated it was
28 inclined to grant such an extension so long as the dates for the Pretrial Conference and Trial in this

1 matter were not affected.

2 6. The parties respectfully request that the Court grant a further 30-day extension of
3 the fact discovery cut-off date, with associated extensions of the expert discovery dates, in order to
4 give the parties the opportunity to continue the settlement discussions that commenced on June 30,
5 2017 prior to incurring the costs and burdens associated with fact depositions and expert
6 discovery. As per the Court's statement at the August 8, 2017 conference, these extensions will
7 not affect the Pretrial Conference or Trial Date.

8 7. Pursuant to L.R. 144(b), the parties state that they have previously requested and
9 received two 30-day extensions from the Court (*see* ECF 21 and ECF 23).

10 8. The proposed extension will not impact any deadlines before the Court.

11 9. Therefore, the parties respectfully request that the Amended Scheduling Order
12 entered on July 10, 2017 be further amended as follows:

13

<u>Event</u>	<u>Current Scheduling Order Date</u>	<u>Proposed Scheduling Order Date</u>
Non-Expert Discovery Cutoff	September 15, 2017	October 16, 2017
Expert Disclosure	September 27, 2017	October 20, 2017
Rebuttal Expert Disclosure	October 20, 2017	November 6, 2017
Expert Discovery Cutoff	November 9, 2017	November 17, 2017
Dispositive Motion Filing Deadline	November 21, 2017	November 21, 2017
Pretrial Conference	April 5, 2018 11:00 a.m., Dept. 10	April 5, 2018 11:00 a.m., Dept. 10
Jury Trial	June 5, 2018 8:30 a.m., Dept. 10	June 5, 2018 8:30 a.m., Dept. 10

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1 RESPECTFULLY SUBMITTED,

2 Dated: August 29, 2017

McCORMICK, BARSTOW, SHEPPARD,
WAYTE & CARRUTH LLP

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By: /s/ Ben Nicholson

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Marshall C. Whitney

Ben Nicholson

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Shane G. Smith

7

Attorneys for Plaintiff and Counter-Defendant,

GALLO CATTLE COMPANY d/b/a JOSEPH

8

GALLO FARMS

9 Dated: August 29, 2017

LEWIS & LLEWELLYN LLP

10

11

By: /s/ Paul T. Llewellyn

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Paul T. Llewellyn

Marc R. Lewis

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Evangeline A.Z. Burbidge

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Attorneys for Defendant and Counter-Plaintiff

SAPUTO DAIRY FOODS USA, LLC

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SIGNATURE ATTESTATION

I hereby attest that concurrence has been obtained from Paul T. Llewellyn, counsel for Saputo Dairy Foods USA, LLC, as indicated by a “conformed” signature (/s/) within this e-filed document.

/s/ Ben Nicholson

Ben Nicholson

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1 **ORDER**

2 Upon consideration of the Parties' Stipulation to Amend the Scheduling Order, and for
3 good cause appearing, the Scheduling Conference Order governing the pretrial phase of the above-
4 captioned litigation is amended as set forth above.

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<u>Event</u>	<u>Current Scheduling Order Date</u>	<u>Proposed Scheduling Order Date</u>
6 Non-Expert Discovery Cutoff	September 15, 2017	October 16, 2017
7 Expert Disclosure	September 27, 2017	October 20, 2017
8 Rebuttal Expert Disclosure	October 20, 2017	November 6, 2017
9 Expert Discovery Cutoff	November 9, 2017	November 17, 2017

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12 IT IS SO ORDERED.

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14 Dated: September 5, 2017

15 /s/ Eric P. Groj
16 UNITED STATES MAGISTRATE JUDGE