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17 UNITED STATES DISTRICT COURT
18 EASTERN DISTRICT OF CALIFORNIA
19 FRESNO DIVISION

20 COUNTRY FRESH BATTER, INC., D/B/A
HOPE'S COOKIES, a Pennsylvania
21 corporation,

22 Plaintiff,

23 v.

24 LION RAISINS, INC., a California corporation,

25 Defendant.

Case No. 1:17-cv-1527-DAD-BAM

**STIPULATION TO ENLARGE TIME
FOR EXPERT DISCOVERY AND TO
CONTINUE PRETRIAL
CONFERENCE AND ORDER**

[Concurrently filed with Declaration of
Andrew M. Hutchison]

1 Pursuant to Local Rule 143 of the Local Rules of the District Court for the
2 Eastern District of California and this Court’s Amended Scheduling Conference
3 Order (ECF Dkt. No. 41), Plaintiff Country Fresh Batter, Inc., doing business as
4 Hope’s Cookies (“Plaintiff” or “Hope’s”) and Defendant Lion Raisins, Inc.
5 (“Defendant” or “Lion”) hereby submit the following Stipulation to enlarge the
6 time for expert discovery.

7 **RECITALS**

8 WHEREAS, on November 16, 2018, this Court held a Telephonic Status
9 Conference in which the parties addressed the scheduling of new case management
10 deadlines, including trial;

11 WHEREAS, on November 19, 2018, the Court entered an Amended
12 Scheduling Conference Order (ECF Dkt. No. 41), which requires the parties to
13 serve initial expert witness disclosures no later than February 19, 2019, to serve
14 supplemental expert witness disclosures no later than March 8, 2019, and to
15 complete all expert discovery, including motions to compel, no later than April 19,
16 2019, and set a pretrial conference for July 22, 2019;

17 WHEREAS, the Amended Scheduling Conference Order also requires the
18 parties to complete all non-expert discovery, including motions to compel, no later
19 than March 29, 2019;

20 WHEREAS, the parties have engaged in non-expert discovery after the
21 Court entered the Amended Scheduling Conference Order (*see* Declaration of
22 Andrew M. Hutchison (“Hutchison Decl.”) at ¶ 2);

23 WHEREAS, on February 15, 2019, this Court entered an Order granting the
24 parties’ stipulation to an extension of time to serve initial expert witness
25 disclosures no later than March 12, 2019, to serve supplemental expert witness
26 disclosures no later than March 29, 2019, and to complete all expert discovery,
27 including motions to compel, no later than April 26, 2019 (ECF Dkt. No. 46);
28

1 WHEREAS, although the parties have been actively engaged in settlement
2 discussions, Plaintiff has renewed its motion to compel regarding various fact
3 discovery disputes. The motion is currently set for hearing with this Court on
4 March 22, 2019, with an informal discovery dispute conference set with this Court
5 for March 20, 2019 (ECF Dkt. Nos. 47, 49; Hutchison Decl., ¶¶ 3, 4);

6 WHEREAS, Plaintiff asserts that all expert discovery, including the initial
7 disclosures required under Fed. R. Civ. P. 26, are necessarily impacted by the
8 current fact discovery disputes (*see* Hutchison Decl., ¶ 5);

9 WHEREAS, based on the current disputes regarding fact discovery and
10 Plaintiff's pending motion to compel, and given the parties' ongoing settlement
11 discussions, the parties' respective counsel have met and conferred and have
12 agreed to request an enlargement of time of four (4) weeks to April 9, 2019 for
13 serving initial expert disclosures, an enlargement of time of four (4) weeks to April
14 29, 2019 for serving supplemental expert disclosures, and an enlargement of time
15 of four (4) weeks to May 24, 2019, to complete all expert discovery, including
16 motions to compel (*see* Hutchison Decl., ¶ 6);

17 WHEREAS, on March 8, 2019, Plaintiff's counsel was assigned a trial date
18 of July 18, 2019 through August 2, 2019, in the Superior Court of the State of
19 Arizona, in and for the County of Maricopa, in the action entitled *Wickenburg*
20 *Unified Sch. Dist. No. 9 v. Turner Construction Co., et al.*, Consolidated Case No.
21 CV2015-011304 (*see* Hutchison Decl., ¶¶ 8, 9);

22 WHEREAS, the parties respective counsel have met and conferred and have
23 agreed to request that the pretrial conference currently scheduled for July 22, 2019,
24 be continued to August 5, 2019, at 2:30 p.m., or a date and time thereafter that is
25 convenient for the Court (*see* Hutchison Decl., ¶ 10);

26 WHEREAS, the parties' request for an enlargement of time for expert
27 discovery is not made to cause undue delay and does not change the dates for the
28 non-expert discovery cutoff, the pretrial motion filing deadline, or the jury trial

1 scheduled for September 24, 2019, and is not related to the independent request to
2 reschedule the pretrial conference currently set for July 22, 2019 (*see* Hutchison
3 Decl., ¶ 11).

4 **STIPULATION**

5 THEREFORE, IT IS HEREBY AGREED AND STIPULATED that the
6 time for expert discovery will be enlarged as follows: the parties to serve initial
7 expert witness disclosures no later than **April 9, 2019**, to serve supplemental
8 expert witness disclosures no later than **April 29 29, 2019**, and to complete all
9 expert discovery, including motions to compel, no later than **May 24, 2019**.

10 IT IS FURTHER AGREED AND STIPULATED that the pretrial
11 conference currently set for July 22, 2019, at 2:30 p.m. in Courtroom 5, be
12 continued to **August 5, 2019** at 2:30 p.m. in Courtroom 5, or a date and time
13 thereafter that is convenient to the Court.

14 Dated: March 12, 2019

COZEN O'CONNOR

15 By: *s/ Andrew M. Hutchison*

16 Andrew M. Hutchison
17 Attorneys for Plaintiff
18 COUNTRY FRESH BATTER, INC.
D/B/A HOPE'S COOKIES

19 Dated: March 12, 2019

LION RAISINS, INC.

20 By: *s/ Bertram T. Kaufmann*

21 Bertram T. Kaufmann
22 Attorney for Defendant
23 LION RAISINS, INC.

ORDER

1 On March 20, 2019, the Court held an informal telephonic conference to address
2 issues raised in Plaintiff’s renewed motion to compel (Doc. No. 47). At the conference,
3 the Court and parties discussed the proposed stipulation for modification of the Amended
4 Scheduling Conference Order (Doc. No. 41). For the reasons stated on the record, the
5 parties’ stipulation is adopted in part, and the deadlines in the Amended Scheduling
6 Conference Order are extended as follows: The parties’ initial expert witness disclosures
7 shall be served no later than April 9, 2019, the parties’ supplemental expert witness
8 disclosures shall be served no later than **April 29, 2019**, and all expert discovery,
9 including motions to compel, shall be completed no later than **May 24, 2019**. All other
10 dates shall remain as previously set, including the pretrial conference and trial.
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12 IT IS SO ORDERED.

13 Dated: March 20, 2019

14 /s/ Barbara A. McAuliffe
15 UNITED STATES MAGISTRATE JUDGE
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