

1 Mark D. Kruthers #179750
William H. Littlewood #202877
2 G. Andrew Slater #238126
DOWLING AARON INCORPORATED
3 8080 North Palm Avenue, Third Floor
P.O. Box 28902
4 Fresno, California 93729-8902
Tel: (559) 432-4500
5 Fax: (559) 432-4590
E-mail: mkruthers@dowlingaaron.com
6 wlittlewood@dowlingaaron.com
aslater@dowlingaaron.com

7 Attorneys for Defendant
8 PERFECTION PET FOODS, LLC

9
10 UNITED STATES DISTRICT COURT
11 FOR THE EASTERN DISTRICT OF CALIFORNIA
12 FRESNO DIVISION
13

14 AGUSTIN BENITEZ, CARLOS
MORALES, and STEVEN VILLARREAL,
15 on behalf of themselves and all others
similarly situated,

16 Plaintiffs,

17 v.

18 WESTERN MILLING, LLC, KRUSE
19 INVESTMENT COMPANY, INC., and
20 PERFECTION PET FOODS, LLC

21 Defendants.
22
23
24
25
26
27
28

Case No. 1:18-cv-01484-DAD-SKO

**STIPULATION FOR EXTENSION OF
TIME TO RESPOND TO AMENDED
COMPLAINT; ORDER EXTENDING
DEADLINE TO RESPOND TO
AMENDED COMPLAINT**

1 **STIPULATION**

2 Plaintiffs AGUSTIN BENITEZ, CARLOS MORALES, and STEVEN VILLARREAL,
3 on behalf of themselves and all others similarly situated (collectively “Plaintiffs”), and Defendants
4 WESTERN MILLING, LLC (“WESTERN”), KRUSE INVESTMENT COMPANY, INC.
5 (“KRUSE”), and PERFECTION PET FOODS, LLC (“PPF”) (collectively “Defendants”)
6 (together, the “Parties”) stipulate and agree to extend the deadline for Defendants to respond to the
7 Amended Complaint filed in the above-captioned action, as set forth below, and respectfully
8 request that the above-entitled Court issue an order approving the terms of this Stipulation. As
9 discussed in more detail below, the Stipulation and requested order are necessary so as to allow the
10 Parties time to finalize and obtain the Court’s approval of the settlement of the above-captioned
11 action.

12 **A. RECITALS**

13 1. Plaintiffs initiated this matter against WESTERN and KRUSE on or about
14 October 25, 2018.

15 2. WESTERN and KRUSE filed a response to Plaintiffs’ Complaint on or
16 about December 6, 2018.

17 3. In February of 2019, Plaintiffs, WESTERN, and KRUSE agreed to stay
18 the above-captioned action while attempts were made to settle the above-captioned action along
19 with a related matter involving PPF that was in arbitration.

20 4. By way of mediation, the Parties reached a class-wide settlement which
21 will, if approved by the Court, resolve this action as well as the claims previously pending against
22 PPF in arbitration.

23 5. As part of the settlement, PPF agreed to waive its right to have the claims
24 asserted against it by Plaintiffs resolved through arbitration and stipulated to being added as a
25 defendant in the above-captioned action so as to allow all pending claims against Defendants to
26 be resolved by this Court.

27 6. In connection with the settlement, Plaintiffs filed an Amended Complaint
28

1 on or about September 19, 2019 adding PPF as a named defendant and asserting certain additional
2 claims against PPF.

3 7. As referenced above, the Parties have reached a class-wide settlement
4 which will, if approved by the Court, resolve the above-captioned action in its entirety.

5 8. The Parties are in the process of preparing the settlement papers and
6 contemplate that Plaintiff will file an unopposed motion seeking preliminary approval of the
7 settlement, within the next thirty (30) calendar days.

8 **B. TERMS OF STIPULATION**

9 Based on the fact that a settlement has been reached, and in order to allow the Parties time
10 to secure the required Court approval of said settlement, the Parties agree to the following:

11 1. Defendants' deadline to file and serve a response to the Amended
12 Complaint shall be continued to the date that is fourteen (14) calendar days from the date of filing
13 and service of any order by the Court denying preliminary or final approval of the settlement.

14 2. Defendants will not be required to file any response to the Amended
15 Complaint if the Court grants final approval of the settlement.

16 3. Nothing herein is intended to prevent the Parties from modifying the above
17 Stipulation and, with Court approval, further altering the basis for determining Defendants' deadline
18 to file and serve a response to the Amended Complaint.

19 **IT IS SO STIPULATED.**

20 Dated: October 7, 2019 DOWLING AARON INCORPORATED

21
22 By: /s/ Mark D. Kruthers

23 Mark D. Kruthers
24 William H. Littlewood
25 G. Andrew Slater
26 Attorney for Defendant
27 PERFECTION PET FOODS

28 ///

///

///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Dated: October 7, 2019 HOYER & HICKS

By: /s/ Ryan Hicks (as authorized on October 7, 2019)
Ryan Hicks
Attorneys for Plaintiffs AGUSTIN BENITEZ,
CARLOS MORALES, and STEVEN VILLARREAL

Dated: October 7, 2019 SAGASER, WATKINS & WIELAND, PC

By: /s/ Ian Wieland (as authorized on October 7, 2019)
Ian Wieland
Attorneys for Defendants WESTERN MILLING,
LLC and KRUSE INVESTMENT COMPANY, INC.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ORDER

Pursuant to the parties' above stipulation, (Doc. 31), and for good cause shown, it is ORDERED:

1. Defendants' deadline to file and serve a response to the Amended Complaint is continued to the date that is fourteen (14) calendar days from the date of filing and service of any order by this Court denying preliminary or final approval of the settlement.

2. Defendants will not be required to file any response to the Amended Complaint if the Court grants final approval of the settlement.

IT IS SO ORDERED.

Dated: October 8, 2019

/s/ Sheila K. Overt
UNITED STATES MAGISTRATE JUDGE