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Attorneys for all Plaintiffs

19
 20 **UNITED STATES DISTRICT COURT**
FOR THE EASTERN DISTRICT OF CALIFORNIA

22 FRAY MARCELINO LOPEZ RODRIGUEZ,
 et al.,

23 Plaintiffs,

24 v.

25 SGLC INC., et al.,

26 Defendants.

CASE NO. 2:08-CV-01971-MCE-KJM

**APPLICATION AND ORDER
 SHORTENING TIME FOR SERVICE OF
 MOTION; MEMORANDUM OF POINTS
 AND AUTHORITIES IN SUPPORT OF
 THE APPLICATION; ORDER
 (Fed. R. Civ. P. 6(c))**

27
 28 Plaintiffs desire to file a motion granting leave to conduct in excess of ten (10)

1 depositions and to modify the amended pretrial scheduling order to extend the discovery cutoff as
2 it relates to two additional depositions that have been delayed to accommodate Defendants or
3 their counsel, and to depose a witness whose importance was not made known to Plaintiffs until
4 October 18, 2011. A copy of the proposed motion is attached to this application for an Order
5 Shortening Time.

6 Plaintiffs desire that the motion be heard on November 17, 2011, in order that it may be
7 heard before the deadline for discovery cut-off set by the Court's Amended Pretrial Scheduling
8 Order on November 23, 2011.

9 It is impossible to give the full amount of written notice required by Local Rule 230(b)
10 for this motion to be heard on November 17, 2011. As explained in the attached Affidavit of
11 Esmeralda Zendejas, Plaintiff was unaware of the need to bring this motion at an earlier time.

12 **MEMORANDUM OF POINTS & AUTHORITIES**

13 **IN SUPPORT OF APPLICATION**

14 Although specific requirements for the time of service of court papers are set forth under
15 Local Rule 230, Local Rule 144(e) permits the court to prescribe a shorter time period.

16 Under Rule 144(e), the application to shorten time shall set forth, by affidavit of counsel,
17 the circumstances to justify the issuance of an order shortening time. For "good cause" shown, a
18 court on request may order that the time be shortened for notice of a motion. Fed. R. Civ. Proc.
19 6(c)(1)(C); see *Untied States v. Fitch* 472 F2d 548, 549, fn. 5 (per curiam) (9th Cir. 1973).

20 Plaintiffs are seeking to file a Motion to Exceed 10 Depositions and to Modify the
21 Amended Pretrial Scheduling Order (hereafter "Plaintiffs Motion"), which is also filed with this
22 application. The Amended Pretrial Scheduling Order has a discovery cut-off date of November
23 23, 2011. Plaintiffs have diligently been conducting discovery and coordinating dates of
24 availability with all Defendants' counsel, which includes multiple parties. In doing so, Plaintiff
25 has only recently been able to depose some of the defendants involved in this case. These recent
26 depositions, along with the production of new documents served by Defendant Vino Farms and
27 received by Plaintiffs on October 17, 2011, have led to the necessity for Plaintiffs' Motion.

1 Plaintiffs sought a stipulation from all parties with respect to these matters. Defendants
2 Green & Hemly, and Douglas Hemly have agreed to extend discovery cut-off and take in excess
3 of 10 depositions to allow for the depositions of Matthew Hemly and Jesus Yopez. Defendants
4 Vino Farms, Inc. have agreed to set an additional deposition pursuant to Fed. Rules Civ. Proc.
5 30(b)(6) but have otherwise refused to agreed to extend discovery cutoff or to take in excess of
6 10 depositions to depose their Executive Assistant. The remaining Defendants have refused to
7 stipulate to taking in excess of 10 depositions or extend the discovery cutoff with respect to these
8 depositions.

9 Plaintiffs are required to give 28 days notice of Plaintiffs' Motion pursuant to Local Rule
10 230. Plaintiffs were informed by the court clerk, that the only date available to hear Plaintiffs'
11 Motion before the cut-off date for discovery is November 17, 2011. Plaintiffs could not have
12 filed this motion sooner as they were not aware that it would be needed in this case. Due to the
13 court's calendar and the limited time remaining before the Court imposed discovery cut-off date,
14 the Plaintiffs are unable to give 28 days notice.

15
16 Dated: October 24, 2011

**CALIFORNIA RURAL LEGAL ASSISTANCE,
INC.**

17
18 /s/ Esmeralda Zendejas

Esmeralda Zendejas
19 Attorneys for Plaintiffs Aguirre Batista, Arredondo
20 Huerta, Aguilar, Blas Jimenez, Blas Martinez,
Garcia Castro, Garcia Michel, Lopez Ramos, Lopez
21 Rodriguez, Naranjo Campos, Pano Ruiz, Peña
Ochoa, Rodriguez Zepeda, Revollo Godinez,
22 Torres Elias, Ayala Gonzalez, Garcia Gutierrez,
Rodriquez, Zuniga Arias, Murillo Guerrero, Carillo
23 Torres, Ceja Ruiz, Cruz Valverde, Montes Gaitan,
Diaz Campo, Esparza Ramirez, Martinez Marquez,
24 Meza Sanchez, Robles Rodriquez, L.M. Torres
Contreras, U. Torres Contreras, Bailon Marquez,
25 Ceja Ibarra, Sandoval Preciado, Cruz Barragan,
Mares Contreras

26 ///

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1 Dated: October 24, 2010

**CALIFORNIA RURAL LEGAL ASSISTANCE
FOUNDATION
TALAMANTES/VILLEGAS/CARRERA, LLP**

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3
4 /s/ Julia Montgomery (As authorized on 10/24/11)
5 Julia L. Montgomery
6 Attorneys for all Plaintiffs

7 **ORDER SHORTENING TIME**

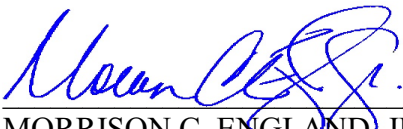
8 IT IS ORDERED that Plaintiffs' Motion to Exceed 10 Depositions and To Modify the
9 Amended Pretrial Scheduling Order may be served by means of electronic service to the attorney
10 of each Defendant no later than 4:00 p.m. on November 10, 2011.

11 A copy of this Order Shortening Time must be served along with the Motion.

12 The Court finds the issues have been sufficiently briefed, therefore no argument will be
13 heard on this motion or the Motion to Exceed 10 Depositions and to Modify the Amended
14 Scheduling Order.

15 Each Defendant shall have until 5:00 p.m. on December 1, 2011, to serve and file a
16 response to the Motion.

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18 Dated: November 14, 2011

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21 MORRISON C. ENGLAND, JR.
22 UNITED STATES DISTRICT JUDGE
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