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Attorneys for Defendant
LOS GATOS TOMATO PRODUCTS

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

FOUR IN ONE COMPANY, INC., on behalf of
itself and all others similarly situated,

Plaintiff,

v.

SK FOODS, L.P., INGOMAR PACKING
COMPANY, LOS GATOS TOMATO
PRODUCTS, RANDALL RAHAL,
INTRAMARK USA, INC.,

Defendants.

CASE NO.: 08-cv-03017-MCE-EFB

**STIPULATION REGARDING RESPONSE
TO COMPLAINT PENDING
CONSOLIDATION OF RELATED CASES**

Plaintiff Four in One Company, Inc. (“Plaintiff”) and Defendant Los Gatos Tomato Products (“Defendant”), by and through their counsel of record, hereby submit this Stipulation Regarding Response To Complaint Pending Consolidation of Related Cases.

WHEREAS Plaintiff filed a Complaint in the above-captioned case on or about December 12, 2008;

WHEREAS Plaintiff alleges price fixing of processed tomato products sold in the United States;

WHEREAS other plaintiffs have filed other complaints in the Eastern District of California based on the same or similar allegations and naming some or all of the same defendants (collectively “the Tomato Antitrust Cases”);

WHEREAS, the parties anticipate the filing of a motion to consolidate all of the Tomato Antitrust Cases pursuant to Federal Rule of Civil Procedure 42(a);

WHEREAS the parties anticipate that the cases will be consolidated, and there will be a single master consolidated amended complaint;

WHEREAS the parties have agreed that an orderly schedule for any response to the pleadings, allowing for the consolidation of cases, would be more efficient for the parties and for the Court;

WHEREAS Plaintiff agrees that the deadline for Defendant to respond to the Complaint should be extended until the earlier of the following two dates: (1) thirty (30) days after the filing of a Consolidated Amended Complaint in the Tomato Antitrust Cases; or (2) thirty (30) days after Plaintiff provides written notice to Defendant that it does not intend to file a Consolidated Amended Complaint;

WHEREAS Defendant agrees that the defense counsel identified below will accept service on behalf of its client of all complaints in this matter, including any amended or consolidated complaints, and that Defendant shall not contest the sufficiency of process or service of process; provided, however, that this Stipulation does not constitute a waiver of any other defense, including but not limited to the defense of lack of personal or subject matter jurisdiction or improper venue; and

WHEREAS Plaintiff and Defendant agree that notwithstanding the above paragraphs, should Defendant respond to a complaint in another of the Tomato Antitrust Cases prior to the date contemplated by this Stipulation, then Defendant shall make a simultaneous response to the complaint in the above-captioned matter and, should Defendant respond or undertake to respond to discovery or otherwise engage in facilitation of case management in another of the Tomato Antitrust Cases prior to the date contemplated by this Stipulation, then Defendant shall engage in similar discovery or case management activity in this case.

THEREFORE, PLAINTIFF AND DEFENDANT, BY AND THROUGH THEIR RESPECTIVE COUNSEL OF RECORD, HEREBY STIPULATE AS FOLLOWS:

1. The deadline for Defendant to respond to the Complaint shall be extended until the earlier of the following two dates: (1) thirty (30) days after the filing of a Consolidated Amended

Complaint in the Tomato Antitrust Cases; or (2) thirty (30) days after Plaintiff provides written notice to Defendant that it does not intend to file a Consolidated Amended Complaint.

2. The defense counsel identified below shall accept service on behalf of its client of all complaints in this matter, including any amended or consolidated complaints, and Defendant shall not contest the sufficiency of process or service of process; provided, however, that by entering into this Stipulation Defendant does not waive any other defense, including but not limited to the defense of lack of personal or subject matter jurisdiction or improper venue.

3. Plaintiff and Defendant agree that notwithstanding the above paragraphs, should Defendant respond to a complaint in another of the Tomato Antitrust Cases prior to the date contemplated by this Stipulation, then Defendant shall make a simultaneous response to the complaint in the above-captioned matter and, should Defendant respond or undertake to respond to discovery or otherwise engage in facilitation of case management in another of the Tomato Antitrust Cases prior to the date contemplated by this Stipulation, then Defendant shall engage in similar discovery or case management activity in this case.

IT IS SO STIPULATED.

DATED: January 26, 2009

QUINN EMANUEL URQUHART OLIVER
& HEDGES, LLP

By: /s/J.D. Horton
J.D. Horton

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Counsel for Plaintiff
FOUR IN ONE COMPANY, INC.

DATED: January 26, 2009

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Counsel for Defendant
LOS GATOS TOMATO PRODUCTS

IT IS SO ORDERED.

Dated: January 27, 2009


MORRISON C. ENGLAND, JR.
UNITED STATES DISTRICT JUDGE