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 13 UNITED STATES DISTRICT COURT
 14 EASTERN DISTRICT OF CALIFORNIA

16 FRANCES VON KOENIG and GUY
 17 CADWELL, individually and on behalf of all
 others similarly situated,
 18 Plaintiffs,
 19 v.
 20 SNAPPLE BEVERAGE CORPORATION,
 21 Defendant.

Case No. 2:09-CV-00606 FCD EFB

**STIPULATION AND ORDER FOR
 EXTENSION OF TIME TO RESPOND TO
 FIRST AMENDED CONSOLIDATED
 CLASS ACTION COMPLAINT**

Date: N/A
 Time: N/A
 Courtroom: 1
 Judge: Hon. Frank C. Damrell, Jr.

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2 Pursuant to Local Rule 144(a), Plaintiffs Frances Von Koenig and Guy Cadwell and
3 Defendant Snapple Beverage Corporation (“Snapple”) hereby request that the Court approve their
4 stipulation to an extension of 12 days for Defendant Snapple to respond to Plaintiffs’ First
5 Amended Consolidated Class Action Complaint, filed May 25, 2010. This application is
6 supported by a Stipulation between all parties and by the Declaration of Norman C. Hile.

7 **I. RELEVANT FACTS IN SUPPORT OF CONTINUANCE**

8 On May 10, 2010, the Court granted in part and denied in part Snapple’s Motion to
9 Dismiss Plaintiffs’ Corrected Consolidated Class Action Complaint. The Court’s May 10 Order
10 directed that “Plaintiffs may file an amended complaint in accordance with this order fifteen (15)
11 days from the date of this order. Defendants are granted thirty (30) days from the date of service
12 of plaintiffs’ second amended consolidated complaint to file a response thereto.” May 10 Order
13 at 23:17-22. Pursuant to the Court’s Order, on May 25, 2010, Plaintiffs filed and served an
14 amended complaint, styled “Plaintiffs’ First Amended Consolidated Class Action Complaint.”
15 Snapple’s response to the First Amended Consolidated Class Action Complaint is accordingly
16 due on June 24, 2010.

17 On June 18, 2010, Plaintiffs submitted to the Court a notice of new authority containing a
18 June 15, 2010, opinion in *Coyle v. Hornell Brewing Co., et al.*, Civil No. 08-2797 (D. N.J. 2008).
19 See Declaration of Norman C. Hile in Support of Stipulated Application, Ex. A. As in this case,
20 the plaintiffs in *Coyle* contend that the defendants engaged in illegal behavior by labeling their
21 Arizona Iced Tea Drinks as “natural” despite containing high fructose corn syrup (“HFCS”). In
22 his June 15 ruling, District Judge Jerome B. Simandle made specific reference to this case before
23 staying *Coyle* for a period of six months and referring to the FDA the question of whether HFCS
24 qualifies as a “natural” ingredient in defendants’ beverages.

25 Additionally, yesterday, June 22, 2010, District Judge Denise Cote of the Southern
26 District of New York, who oversees the related *Weiner* litigation against Snapple, Civil No. 07-
27 8742 (S.D.N.Y. 2007), issued an order directing the parties to “submit letters of no more than
28 three (3) pages each by **June 25, 2010**, to show cause why this action should not be stayed
pending the outcome of the reference to the FDA of the question in Coyle.” See Declaration of

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Norman C. Hile, Ex. B.

II. DISCUSSION

In light of these recent developments, the parties submit that it would be in the interests of judicial economy to grant Snapple an extension of time on its response to Plaintiffs' First Amended Consolidated Class Action Complaint. An extension of 12 days, from June 24, 2010, to July 6, 2010, will allow Snapple better to formulate its response to the First Amended Consolidated Class Action Complaint and to determine, possibly in conjunction with Plaintiffs, whether it should seek a stay of this action in light of *Coyle* and Judge Cote's order to show cause in *Weiner*. And because all parties stipulate to it, no party will be prejudiced by granting the proposed extension of time.

III. RELIEF REQUESTED

For the foregoing reasons, Plaintiffs and Snapple request that the Court grant Snapple a continuance of 12 days to respond to Plaintiff's First Amended Consolidated Class Action Complaint. Plaintiff filed and served its First Amended Consolidated Class Action Complaint on Snapple on May 25, 2010. Therefore, the original deadline for Defendant to file a response was June 24, 2010. Should the Court grant this Stipulated Application, Snapple must file and serve its response to the Complaint by **July 6, 2010**.

Respectfully submitted,

Dated: June 23, 2010

G. RICHARD BAKER
Baker Law PC

/s/ G. Richard Baker
G. RICHARD BAKER
Lead Attorney for Plaintiffs, Individually and on
Behalf of All Others Similarly Situated

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Dated: June 23, 2010

NORMAN C. HILE
ANALEA J. PATTERSON
Orrick, Herrington & Sutcliffe LLP

/s/ Norman C. Hile

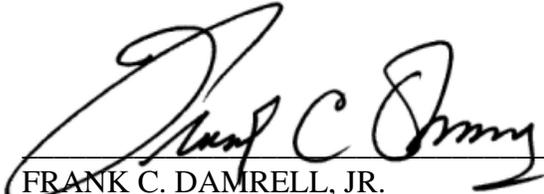
NORMAN C. HILE
Attorney for Defendant
SNAPPLE BEVERAGE CORPORATION

ORDER

GOOD CAUSE APPEARING, IT IS SO ORDERED that:

The request for extension of time is granted. A response to Plaintiff Frances Von Koenig's and Plaintiff Guy Cadwell's First Amended Consolidated Class Action Complaint shall be filed on or before **July 6, 2010**.

Dated: June 23, 2010



FRANK C. DAMRELL, JR.
UNITED STATES DISTRICT JUDGE