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8 **UNITED STATES DISTRICT COURT**
9 **EASTERN DISTRICT OF CALIFORNIA**

10 WEST COAST VEGETABLE CO., INC., a
11 California Corporation,

Case No. 2:09-CV-03096 JAM EFB

12 Plaintiff,

13 vs.

14 WEST CENTRAL PRODUCE, INC., a
15 California corporation, and DOES 1 through 50,
16 inclusive,

Defendants.

**STIPULATION TO MODIFY STATUS
(PRETRIAL SCHEDULING) ORDER AND
ORDER THEREON**

"AS MODIFIED BY THE COURT"

19 1. On March 8, 2010 the Court entered its Status (Pre-Trial Scheduling) Order
20 scheduling trial to commence on March 7, 2011.

21 2. By stipulation and order filed April 5, 2010, the Court granted the parties'
22 Stipulation for Continuance of Trial, pursuant to which trial continued by three weeks so that it
23 would commence on March 28, 2011.

24 3. On April 13, 2010, counsel for plaintiff was unexpectedly hospitalized for a heart
25 condition and underwent open-heart surgery on April 23, 2010. Counsel for Plaintiff was, as a
26 result of the hospitalization and surgery, away from his office for the better part of five weeks.

27 4. By stipulation and order filed on July 30, 2010, the Court granted the parties'
28 Stipulation to Modify Status (Pretrial Scheduling) Order. Pursuant to the July 30, 2010 stipulation

1 and order, the deadlines for dispositive motion filing and dispositive motion hearings were
2 continued by approximately one month. The discovery cut-off and the disclosure of expert
3 witnesses were continued by approximately two months. The trial date was continued by only two
4 weeks to April 4, 2011.

5. The attorneys for both parties have been working diligently to meet each deadline set
6 forth in the Status (Pretrial Scheduling) Order. Specifically, initial written discovery has been
7 exchanged, defendants responses to discovery have been served and plaintiff's responses are due by
8 September 20, 2010. Defendant has produced over 17,000 documents in response to discovery and
9 plaintiff is expected to make a considerable document production on September 20, 2010. Notices
10 for depositions have been served by defendant and a request for inspection of the plaintiff's
11 premises has been noticed for October 2010. The parties continue to strive to proceed in a manner
12 that will permit the orderly progression of the case. To this end, the parties believe documents must
13 be reviewed prior to depositions and inspections, depositions and inspections should be completed
14 or at least well underway prior to the disclosure of experts and their reports and discovery must be
15 nearly complete prior to the filing of dispositive motions.

6. The current schedule would require the disclosure of expert witnesses prior to
7 plaintiff's production of documents in response to discovery.

7. Despite best efforts and professional cooperation between counsel for the parties,
8 counsel for the parties find that they are unable to meet the current deadlines for certain portions of
9 the pretrial schedule and therefore mutually request that the Court enter an order modifying certain
10 pretrial and trial deadlines as well as continue the currently scheduled trial date.

8. Specifically, the parties request that following changes be made to the current
9 scheduling order:

24 a. Motion Hearings Schedules:

25 All dispositive motions shall be filed by January 26, 2011. Hearing on such
26 motions shall be on February 23, 2011 at 9:30 a.m. in Courtroom # 6.

27 b. Discovery:

28 All discovery shall be completed by January 11, 2011.

c. Disclosure of Expert Witnesses:

The parties shall make expert witness disclosures under Fed. R. Civ. P. 26(a)(2) by October 27, 2010. Supplemental disclosures and disclosure of any rebuttal experts under Fed. R. Civ. P. 26(a)(2)(c) shall be made by November 10, 2010.

d. Pre-Trial Conference:

A Final Pre-trial Conference shall be held on April 6, 2011 at 3:00 p.m. The parties shall file their Joint Pre-Trial Conference Statement not later than March 30, 2011.

e. Trial:

A jury trial shall commence May 16, 2011 at 9:00 a.m.

8. Except as otherwise set forth herein, the parties request that the Status (Pretrial Scheduling) Order remain in effect as filed March 8, 2010.

Dated: September 15, 2010

By: /s/
JAMES M. MORRIS, Attorney for Plaintiff,
West Coast Vegetable co., Inc.

Dated: September 15, 2010

DYKEMA GOSSETT LLP

By: /s/
ALLAN GABRIEL, Attorneys for Defendant,
West Central Produce, Inc.

ORDER

IT IS SO ORDERED.

Dated: September 16, 2010

/s/ John A. Mendez

US DISTRICT COURT JUDGE

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