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Attorneys for Defendant Target Corporation

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

TROY KOOL, individually and on behalf
of himself and all others similarly situated,

Plaintiffs,

vs.

TARGET CORPORATION, a Minnesota
Corporation and DOES 1-100, inclusive,

Defendants.

No. 2:10-CV-02950-LKK-EFB

**STIPULATION AND ORDER
TO VACATE HEARING DATES**

1 **STIPULATION**

2 Plaintiff Troy Kool and defendant Target Corporation (“Target”), acting through their respective
3 counsel of record, hereby stipulate as follows:

4 1. On November 17, 2010, Target filed its Motion to Dismiss, Stay, or Transfer This Action
5 on Account of Previously-Filed Class Action; or Alternatively, to Transfer Venue Pursuant to 28 U.S.C.
6 § 1404(a); or Alternatively, to Stay Action Pending Outcome of *Brinker Restaurant Corp. v. Superior*
7 *Court* (the “Motion to Dismiss”) (Docket No. 9). The hearing on the Motion to Dismiss was noticed for
8 December 20, 2010.

9 2. Plaintiff filed his opposition to the Motion to Dismiss on December 6, 2010 (Docket
10 No. 15). Target filed its reply in support of the Motion to Dismiss on December 13, 2010 (Docket
11 No. 17).

12 3. On December 8, 2010, the Court *sua sponte* continued the hearing on Target’s motion to
13 dismiss to January 18, 2011. (Docket No. 16.)

14 4. Pursuant to the Court’s November 2, 2010, order (Docket No. 7), the parties were also
15 scheduled to appear on January 24, 2011, for the initial status conference.

16 5. On January 7, 2011, the parties stipulated to continue the hearing on Target’s motion to
17 dismiss and the pre-trial scheduling conference to April 14, 2011, and April 25, 2011, respectively
18 (Docket No. 19). The parties requested the continuance based on the mediation in this action and in the
19 pending related action, *Mesindo Pompa, individually and on behalf of all others similarly situated,*
20 *Plaintiff v. Target Corporation, and Does 1 through 50, inclusive, Defendants*, U.S.D.C., C.D. Cal., No.
21 CV 10-0634 AHM (FFMx) (“*Pompa*”). On January 10, 2011, the Court otherwise granted the parties’
22 stipulation, but continued the hearing on Target’s motion to dismiss to April 11, 2011. (Docket No. 20.)

23 6. On April 4, 2011, the Court *sua sponte* further continued the hearing on Target’s motion
24 to dismiss to April 25, 2011. (Docket Nos. 21, 22.)

25 7. The parties report that they have reached a resolution of this action and the related *Pompa*
26 action, and anticipate filing their settlement papers with the court in *Pompa* within the next month. As
27 part of that settlement, this action will be dismissed. To help facilitate the settlement and avoid what
28 may become unnecessary time and expense for the parties and the Court, the parties request that the

1 April 25, 2011, hearing on Target's motion to dismiss and the April 25, 2011, status conference both be
2 vacated.

3 8. The parties further request that the Court stay this action for all purposes pending the
4 parties' settlement. The parties will report back to the Court on the progress of the settlement approval
5 process as it proceeds.

6 Dated: April 13, 2011.

7 GENE J. STONEBARGER
8 RICHARD D. LAMBERT
9 STONEBARGER LAW

10 JAMES R. PATTERSON
11 ALISA A. MARTIN
12 HARRISON PATTERSON & O'CONNOR LLP

13 By: /s/Richard D. Lambert (as authorized 4/13/11)

14 Richard D. Lambert
15 Attorneys for Plaintiff Troy Kool and
16 the Proposed Class

17 Dated: April 13, 2011.

18 JEFFREY D. WOHL
19 RISHI N. SHARMA
20 JENNIFER L. ROTH
21 PAUL, HASTINGS, JANOFSKY & WALKER LLP

22 By: /s/Rishi N. Sharma

23 Rishi N. Sharma
24 Attorneys for Defendant Target Corporation
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1 ORDER

2 On the stipulation of the parties, and good cause appearing therefor,

3 IT IS ORDERED:


4 1. The April 25, 2011, hearing on defendant Target Corporation's Motion to Dismiss, Stay,
5 or Transfer This Action on Account of Previously-Filed Class Action; or Alternatively, to Transfer
6 Venue Pursuant to 28 U.S.C. § 1404(a); or Alternatively, to Stay Action Pending Outcome of *Brinker*
7 *Restaurant Corp. v. Superior Court* (Docket No. 9) is vacated.

8 2. The April 25, 2011, initial status conference also is vacated.

9 3. The action is stayed for all purposes pending final resolution of the parties' settlement.

10 4. The parties are directed to report back to the Court on the progress of the settlement
11 approval process as it proceeds before the court in *Mesindo Pompa, individually and on behalf of all*
12 *others similarly situated, Plaintiff v. Target Corporation, and Does 1 through 50, inclusive, Defendants,*
13 U.S.D.C., C.D. Cal., No. CV 10-0634 AHM (FFMx), with the understanding that dismissal of this action
14 will be part of settlement once approved.

15 Dated: April 13, 2011.

16 
17 LAWRENCE K. KARLTON
18 SENIOR JUDGE
19 UNITED STATES DISTRICT COURT