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17 **Attorneys for Defendants**  
**NBTY, Inc. and Rexall Sundown, Inc.**

18 **UNITED STATES DISTRICT COURT**  
 19 **EASTERN DISTRICT OF CALIFORNIA**

20	LILIANA CARDENAS, On Behalf of Herself	)	Case No. 11-cv-01615-LKK-EFB
21	and All Other Similarly Situated California	)	
	Residents,	)	<b>JOINT STIPULATION AND ORDER</b>
22		)	<b>RESETTING PRETRIAL STATUS</b>
	Plaintiff,	)	<b>CONFERENCE AND SETTING</b>
23		)	<b>SCHEDULE REGARDING PLAINTIFF'S</b>
	vs.	)	<b>SECOND AMENDED COMPLAINT</b>
24		)	
	NBTY, INC., a Delaware corporation and	)	
25	REXALL SUNDOWN, INC., a Florida	)	
	corporation,	)	
26		)	
	Defendants.	)	
27		)	
28		)	

1 The parties, by and through their undersigned counsel of record, hereby stipulate as follows:

2 WHEREAS, on June 14, 2011, Plaintiff filed her Complaint and initiated the above-  
3 referenced action;

4 WHEREAS, on July 5, 2011, the parties entered into a stipulation providing that Plaintiff  
5 would file an Amended Complaint on July 25, 2011, and Defendants would have until August 24,  
6 2011, to file a responsive pleading thereto;

7 WHEREAS, on July 25, 2011, Plaintiff filed her Amended Complaint;

8 WHEREAS, on August 24, 2011, Defendants' counsel filed a motion to dismiss Plaintiff's  
9 Amended Complaint and the parties stipulated to a briefing schedule whereby Plaintiff's Opposition  
10 brief was due on October 3, 2011, Defendants' Reply brief was due on October 24, 2011, and  
11 Defendants' motion was set for hearing on November 7, 2011 and 10:00 a.m. (Dkt # 15);

12 WHEREAS, the parties also stipulated to continue the initial Pretrial Status Conference until  
13 sometime after Defendants' Motion to Dismiss was heard and decided (Dkt #15);

14 WHEREAS, Plaintiff has considered Defendants' Motion to Dismiss and decided it would be  
15 most efficient and best facilitate the parties' litigation of this case to file a Second Amended  
16 Complaint *in lieu* of formally responding to Defendants' Motion to Dismiss;

17 WHEREAS, Defendants dispute whether deficiencies in the Complaint can be cured but  
18 consent to the amendment and agree that any such amendment would render the pending Motion to  
19 Dismiss moot;

20 WHEREAS, the parties have agreed that Plaintiff will have 30 days from the date of this  
21 stipulation to file a Second Amended Complaint;

22 WHEREAS, Defendants will have 30 days from the date Plaintiff's Second Amended  
23 Complaint is filed to answer or otherwise respond;

24 WHEREAS, should Defendants chose to file a Motion to Dismiss the Second Amended  
25 Complaint, the parties will seek to set a mutually agreeable briefing schedule that takes into account  
26 the available hearing dates and pre-existing scheduling conflicts and obligations of each parties'  
27 counsel, among other things;

28

1 WHEREAS, the parties agree that it would be most efficient and facilitate the parties' ability  
2 to meet and confer about the matters set forth in the Court's Order to continue the initial Pretrial  
3 Status Conference and time for the parties to file their status report(s) until after Defendants have  
4 answered or until after Defendants' motion to dismiss (and any other accompanying motion), should  
5 Defendants chose to file one, is heard and decided; and

6 WHEREAS, the parties further agree that by entering into this stipulation Defendants do not  
7 waive any defenses or submit to the jurisdiction of the Court.

8 NOW, THEREFORE, the parties stipulate as follows:

- 9 1. Plaintiff will file her Second Amended Complaint on October 24, 2011;
- 10 2. Defendants will file their response to the Second Amended Complaint on November  
11 23, 2011.
- 12 3. The hearing currently set for November 7, 2011, on Defendants' Motion to Dismiss  
13 the First Amended Complaint is hereby taken off calendar;
- 14 4. The initial Status Conference is continued to December 19, 2011 at 3:00 p.m. The  
15 parties shall file their status reports fourteen (14) days prior to the status conference.

16 Dated: September 22, 2011

SIDLEY AUSTIN LLP

17 By: /s/ David R. Carpenter

18 David R. Carpenter  
19 Attorneys for Defendants NBTY, Inc., and  
20 Rexall Sundown, Inc.

21 Dated: September 22, 2011


BONNETT, FAIRBOURN, FRIEDMAN &  
22 BALINT, P.C.

23 By: /s/ Patricia N. Syverson

24 Patricia N. Syverson  
25 Attorneys for Plaintiff Liliana Cardenas

26 **IT IS SO ORDERED.**

27 Dated: September 26, 2011.

28   
LAWRENCE K. KARLTON  
SENIOR JUDGE  
UNITED STATES DISTRICT COURT

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on September 22, 2011, I electronically filed the foregoing **JOINT**  
3 **STIPULATION AND [PROPOSED] ORDER RESETTING PRETRIAL STATUS**  
4 **CONFERENCE AND SETTING SCHEDULE REGARDING PLAINTIFF'S SECOND**  
5 **AMENDED COMPLAINT** with the Clerk of the Court using the CM/ECF system which will  
6 send notification of such filing to the e-mail addresses denoted on the Electronic Mail notice list,  
7 and I hereby certify that I have mailed the foregoing document via the United States Postal  
8 Service to the non-CM/ECF participants indicated on the Manual Notice list.

9 I certify under penalty of perjury under the laws of the United States of America that the  
10 foregoing is true and correct.

11 Executed on September 22, 2011.

12  
13 */s/ Patricia N. Syverson*  
14 Patricia N. Syverson