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

20	LILIANA CARDENAS, an Individual, and	)	Case No. 2:11-CV-01615-TLN-CKD
21	FRANCISCO PADILLA, an Individual, On	)	
22	Behalf of Themselves and All Others Similarly	)	<b><u>CLASS ACTION</u></b>
	Situated,	)	
23	Plaintiffs,	)	<b>JOINT STIPULATION AND ORDER FOR</b>
		)	<b>A STAY OF ALL PROCEEDINGS</b>
24	vs.	)	JUDGE: Hon. Troy L. Nunley
25		)	
26	NBTY, INC., a Delaware corporation and	)	
	REXALL SUNDOWN, INC., a Florida	)	
27	corporation,	)	
	Defendants.	)	
28		)	

1 Plaintiffs Liliana Cardenas and Francisco Padilla (“Plaintiffs”) and Defendants Rexall  
2 Sundown, Inc. and NBTY, Inc. (collectively with Plaintiffs, “the Parties”), by and through their  
3 undersigned counsel, hereby respectfully submit this joint stipulation for an order staying this action  
4 because Plaintiffs’ claims and the claims of the purported class they seek to represent have been  
5 settled. In support, the Parties state as follows:

6 WHEREAS, in this matter, Plaintiffs have challenged statements used in the marketing of  
7 various Osteo Bi-Flex glucosamine joint health dietary supplement products, which are  
8 manufactured and sold by Rexall Sundown, Inc., a subsidiary of NBTY, Inc. (*See Third. Am.*  
9 *Compl., Dkt. No. 66.*)

10 WHEREAS, this matter is one of six putative class actions challenging the marketing of  
11 glucosamine joint health dietary supplement products manufactured and/or sold by Rexall Sundown,  
12 Inc., NBTY, Inc., or their affiliates (collectively, “Rexall”), which are currently pending in five  
13 federal district courts throughout the country. The pending cases are: *Liliana Cardenas and*  
14 *Francisco Padilla v. NBTY, Inc. and Rexall Sundown, Inc.*, No. 2:11-CV-01615-TLN-CKD (E.D.  
15 Cal. filed June 14, 2011); *Jennings v. Rexall Sundown, Inc.*, No. 1:11-cv-11488-WGY (D. Mass.  
16 filed Aug. 22, 2011); *Cecilia Linares and Abel Gonzalez v. Costco Wholesale, Inc.*, No. 3:11-cv-  
17 02547-MMA-RBB (S.D. Cal. filed Nov. 2, 2011); *Nick Pearson v. Target Corp.*, No. 1:11-cv-07972  
18 (N.D. Ill. filed Nov. 9, 2011); *Randy Nunez v. NBTY, Inc., Arthritis Research Corp., and Nature’s*  
19 *Bounty, Inc.*, No. 3:13-CV-0495 (S.D. Cal. filed Mar. 1, 2013); and *Augustina Blanco v. CVS*  
20 *Pharmacy, Inc.*, No. 5:13-cv-00406-JGB-SP (C.D. Cal. filed Mar. 4, 2013).

21 WHEREAS, on April 15, 2013, the Parties in this action executed a global, nationwide  
22 settlement agreement settling and releasing for consideration, *inter alia*, all of the claims made in  
23 this case. Plaintiff Francisco Padilla has been identified as a class representative on behalf of the  
24 settlement class, and Plaintiff Liliana Cardenas is a member of the settling class, which has been  
25 defined to include all purchasers of Osteo Bi-Flex products since 2005.

26 WHEREAS, this settlement will be submitted to the Honorable Judge James B. Zagel in the  
27 Northern District of Illinois for preliminary approval. (Judge Zagel is presiding over the *Pearson*  
28 case (N.D. Ill., Case No. 1:11-cv-07972), one of the cases being settled.)

1           WHEREAS, to facilitate this global, nationwide settlement, Plaintiffs have filed a Second  
2 Amended Class Action complaint in the *Pearson* case on behalf of a nationwide class of all persons  
3 in the United States who purchased the products covered by the settlement, which include Osteo Bi-  
4 Flex products (Ex. A hereto). Plaintiff Francisco Padilla is a named plaintiff in the *Pearson* Second  
5 Amended Class Action Complaint (*id.* ¶¶ 15–16); plaintiff Liliana Cardenas is a member of the  
6 nationwide class as defined in the *Pearson* Second Amended Class Action Complaint (*id.* ¶ 51).

7           WHEREAS, pursuant to the settlement agreement, Plaintiffs and Rexall are jointly moving  
8 for a stay of this case pending final approval of the class action settlement. Similar motions will be  
9 filed in the other related cases.

10           WHEREAS, in light of the settlement, the Parties respectfully request the Court to exercise  
11 its inherent authority to stay this action. *See, e.g., Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936)  
12 (“[T]he power to stay proceedings is incidental to the power inherent in every court to control the  
13 disposition of the causes on its dockets with economy of time and effort for itself, for counsel, and  
14 for litigants.”); *Lockyer v. Mirant Corp.*, 398 F.3d 1098, 1109 (9th Cir. 2005) (citing *Landis* for the  
15 proposition that a “district court has discretionary power to stay proceedings in its own court”). A  
16 stay is appropriate where, as here, it is efficient to suspend an action pending resolution of  
17 proceedings in another jurisdiction that bear upon the case. *See, e.g., Sinclair v. Fox Hollow of*  
18 *Turlock Owners Ass’n*, No. 1:03-cv-05439, 2011 WL 219924, at \*2 (E.D. Cal. Jan. 21, 2011)  
19 (“When there is an independent proceeding related to a matter before the trial court, the Ninth  
20 Circuit has held that a trial court may ‘find it efficient for its own docket and the fairest course for  
21 the parties to enter a stay of an action before it, pending resolution of independent proceedings  
22 which may bear upon the case.’”) (quoting *Mediterranean Enters., Inc. v. Ssangyong Corp.*, 708  
23 F.2d 1458, 1465 (9th Cir. 1983)).

24           WHEREAS, the proposed stay promotes judicial economy by permitting both the Court and  
25 the Parties to suspend their work on this case while the settlement process moves forward in the  
26 Northern District of Illinois. When final approval has been given, the settlement requires Plaintiffs  
27 to voluntarily dismiss with prejudice this action. Accordingly, entering the proposed stay will  
28 conserve the resources of the Court, the litigants, and their counsel.

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**NOW, THEREFORE**, the Parties stipulate as follows:

1. This action shall be stayed pending final approval of the settlement.

The attorney filing this document confirms that all other signatories listed, and on whose behalf the filing is submitted, concur in the filing’s content and have authorized the filing.

Dated: April 24, 2013

By: /s/ Patricia N. Syverson  
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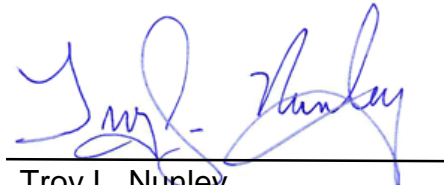
1 Dated: April 24, 2013

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8 **IT IS SO ORDERED.**

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10 Dated: April 29, 2013

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14 Troy L. Nunley  
United States District Judge