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15 **Attorneys for Defendants**  
 16 **NBTY, INC. and REXALL**  
 17 **SUNDOWN, INC.**

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

20 LILIANA CARDENAS, On Behalf of Herself ) 21 and All Other Similarly Situated California ) 22 Residents, ) 23 ) 24 Plaintiff, ) 25 ) 26 vs. ) 27 ) 28 NBTY, INC., a Delaware corporation and ) REXALL SUNDOWN, INC., a Florida ) corporation, ) Defendants. )	Case No. 2:11 CV-01615-LKK-EFB  <b>STIPULATION AND ORDER RE FILING          OF AMENDED COMPLAINT AND          EXTENSION OF DEFENDANTS' TIME TO          RESPOND</b>
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29 The parties, by and through their undersigned counsel, hereby stipulate as follows:  
 30 WHEREAS, on June 14, 2011, Plaintiff sent to both Defendants by certified mail a  
 31 letter that Plaintiff asserts meets the requirements of California Civil Code § 1782(a); and  
 32 WHEREAS, pursuant to California Civil Code § 1013(a), service of Plaintiff's  
 33 June 14, 2011 letter was completed ten calendar days after mailing, *i.e.*, on June 24, 2011; and

1           WHEREAS, Plaintiff served the Summons and Complaint on each Defendant on  
2 June 17, 2011; and

3           WHEREAS, Defendants' response to the Complaint currently is due on July 8, 2011;  
4 and

5           WHEREAS, Plaintiff will file a First Amended Complaint on July 25, 2011 without  
6 leave of Court to add a claim for damages in her CLRA cause of action pursuant to California Civil  
7 Code § 1782(d); and

8           WHEREAS, the parties agree that it would be inefficient and unduly burdensome for  
9 Defendants to respond to the initial Complaint on July 8, 2011 given that Plaintiff intends to file a  
10 First Amended Complaint on or before July 25, 2011 to which Defendants also would be required to  
11 respond; and

12           WHEREAS, the parties further agree that Defendants shall be given 30 days to  
13 respond to the First Amended Complaint, once filed; and

14           WHEREAS, the parties agree that by entering into this stipulation Defendants do not  
15 waive any defenses or submit to the jurisdiction of the Court,

16           NOW, THEREFORE, the parties stipulate as follows:

- 17           1. Defendants need not respond to the initial Complaint;
- 18           2. Plaintiff shall file a First Amended Complaint on July 25, 2011 to add a claim  
19 for damages in her CLRA cause of action; and
- 20           3. Defendants, without waiving any defenses or submitting to the jurisdiction of  
21 the Court, shall have through and including August 24, 2011 to respond to the First Amended  
22 Complaint.

1 Dated: July 5, 2011

SIDLEY AUSTIN LLP  
LEE L. AUERBACH

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3 By: /s/ Lee L. Auerbach  
4 Lee L. Auerbach

5 Attorneys for Defendants NBTY, INC.  
6 and REXALL SUNDOWN, INC

7  
8 Dated: July 5, 2011


BONNETT, FAIRBOURN, FRIEDMAN &  
BALINT, P.C.  
ANDREW S. FRIEDMAN  
ELAINE A. RYAN  
PATRICIA N. SYVERSON

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12 By: /s/ Patricia N. Syverson  
13 Patricia N. Syverson

14 Attorneys for Plaintiff Liliana Cardenas

15 **IT IS SO ORDERED.**

16 Dated: July 14, 2011

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19 LAWRENCE K. KARLTON  
20 SENIOR JUDGE  
21 UNITED STATES DISTRICT COURT  
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PROOF OF SERVICE

STATE OF CALIFORNIA )
) ss
COUNTY OF LOS ANGELES )

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is Sidley Austin LLP, 555 West Fifth Street, Suite 4000, Los Angeles, California 90013-1010.

On July 5, 2011, I served the foregoing document described as: STIPULATION AND [PROPOSED] ORDER RE FILING OF AMENDED COMPLAINT AND EXTENSION OF DEFENDANTS' TIME TO RESPOND AND [PROPOSED] ORDER RE FILING OF AMENDED COMPLAINT AND EXTENSION OF DEFENDANTS' TIME TO RESPOND on all interested parties in this action as follows:

BONNETT, FAIRBOURN, FRIEDMAN & BALINT, P.C.
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[By Mail]

[On CM/ECF]

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[By Mail]

[x] (ON CM/ECF) I electronically filed and served the document on CM/ECF.

[x] (BY MAIL) I deposited such envelope in the mail at Los Angeles, California.

The envelope was mailed with postage thereon fully prepaid. I am "readily familiar" with the firm's

1 practice of collection and processing correspondence for mailing. It is deposited with the U.S. postal  
2 service on that same day in the ordinary course of business. I am aware that on motion of a party  
3 served, service is presumed invalid if the postal cancellation date or postage meter date is more than  
4 one day after the date of deposit for mailing in the affidavit.

5 I declare that I am a registered user of the CM/ECF system.

6 I served the foregoing document by electronically filing the document via the  
7 CM/ECF system maintained by the court.

8 I declare under penalty of perjury under the laws of the United States of America that  
9 the above is true and correct.

10 Executed on July 5, 2011, at Los Angeles, California.

11  
12 /s/ Lee L. Auerbach  
13 Lee L. Auerbach  
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