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April 8, 2010

*Via ECF*The Honorable Joseph C. Spero  
United States District Court  
Northern District of California, San Francisco Division  
Courtroom A, 15th Floor  
450 Golden Gate Avenue  
San Francisco, CA 94102**Re: Center for Food Safety, et al. v. Tom Vilsack, et al.**  
**Case No. 3:08-cv-0484-JSW**

Dear Judge Spero:

Plaintiffs and Defendant-Intervenors Betaseed, Inc., SESVanderHave USA, Inc. and Syngenta Seeds, Inc. (collectively, "Requesting Parties") hereby jointly request, as set forth below, that the Court modify the requirement established in the Notice of Reference and Order re Discovery Procedures ("Discovery Order") (Document 188, filed December 14, 2009) that lead trial counsel for the parties "meet and confer in person" before filing a discovery motion in the action referenced above.

A discovery dispute has arisen in the action referenced above. The Requesting Parties are the parties directly involved in the dispute. The primary issue in the dispute is the application of the work product doctrine to a category of documents that Plaintiffs have sought in a request for production. Counsel for the Requesting Parties have exchanged e-mails regarding their respective positions and have conferred by telephone on multiple occasions. Subsequently, Plaintiffs demanded a "meeting of lead trial counsel" pursuant to the Discovery Order (¶ 1; at 2), offering to meet in San Francisco absent relief from the Discovery Order, if such meeting can be arranged on April 12 or 13, 2010.

The Requesting Parties jointly request that the Court permit the respective lead trial counsel for the Requesting Parties to meet and confer by telephone conference call instead of "in person." Alternatively, the Requesting Parties request that the Court permit lead trial counsel to participate by phone in a meeting that respective local San Francisco counsel for the Requesting Parties would attend in person. Lead trial counsel for one of the Plaintiffs is located in Honolulu, Hawaii; and lead trial counsel for Defendant-Intervenors Betaseed, Inc., SESVanderHave USA, Inc. and Syngenta Seeds, Inc. are located in New York, New York, Kansas City, Missouri and Washington, D.C., respectively. The expense to the Requesting Parties for lead trial counsel to travel to San Francisco to "meet and confer in person" is substantial and would be avoided, if this



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request were to be granted. In addition, lead trial counsel for Syngenta Seeds, Inc. has a health problem that precludes her from traveling for at least ten days.

Finally, if the Court were to deny the request to permit *all* lead trial counsel to participate by phone, the Requesting Parties request that the Court allow the Requesting Parties to satisfy the Discovery Order requirement by having one lead trial counsel represent the four Plaintiffs and one lead trial counsel represent the three Defendant-Intervenors at an "in person" meeting regarding the dispute. Such a limited modification of the Discovery Order would be in the spirit of the Court's requirement that the parties submit joint briefs on issues and would also address the health problem mentioned above.

The Requesting Parties are attempting to schedule any required "in person" meeting in San Francisco on April 12 or 13, 2010. Consequently, the Requesting Parties would appreciate any guidance that the Court can provide as soon as the Court's schedule permits.

Respectfully submitted,

Dated: April 8, 2010

FARELLA BRAUN + MARTEL LLP

By: \_\_\_\_\_ /s/\_\_\_\_\_  
David J. Lazerwitz

Attorneys for Defendant-Intervenor  
Syngenta Seeds, Inc.

Dated: April 8, 2010

HOLLAND & HART LLP

By: \_\_\_\_\_ (with permission)\_\_\_\_\_  
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Dated: April 8, 2010

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Dated: April 8, 2010

EARTHJUSTICE

By: (with permission)  
Paul H. Achitoff

Attorneys for Plaintiff  
Center for Food Safety

Phone conference approved. IT IS SO ORDERED.

Dated: April 9, 2010

