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 8 UNITED STATES DISTRICT COURT
 9 NORTHERN DISTRICT OF CALIFORNIA
 10 SAN FRANCISCO BRANCH

11 RAMON OCHOA-HERNANDEZ, on behalf of
 himself and all others similarly situated,

12 Plaintiff,

13 vs.
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15 CJADERS FOODS, INC., a California Corporation
 (doing business as "COUNTY SQUARE MARKET"
 16 and "COUNTRY SQUARE MARKET"); ANN
 LEWALD, SANDRA TAM, ELAINE CHAN and
 17 CINDY YEN,

18 Defendants.
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Case No. 3:08-CV-02073-MHP-EMC

**STIPULATION & ~~PROPOSED~~
 ORDER SETTING A BRIEFING
 SCHEDULE TO ADDRESS IMPACT
 OF ARIAS V. SUP. CT. AND
 EXTENDING CLASS
 CERTIFICATION DEADLINE**

1 On September 3, 2009 the Court ordered the parties to submit a briefing schedule to address
2 the issues raised by the parties in their joint status report (Docket #29), and the impact that the
3 California Supreme Court's decision in *Arias v. Superior Court*, 46 Cal.4th 969 (2009), will have
4 on the adjudication and management of this case. The parties have met and conferred and hereby
5 stipulate as follows:

- 6 1. The Parties have agreed to brief the following issues relating to the *Arias* case:
 - 7 a. whether the holding in *Arias*, that, upon satisfying the pre-filing statutory
8 requirements, an aggrieved employee is empowered to act as a proxy or
9 agent of the state to enforce the state's labor laws and collect penalties on
10 behalf of current and former employees *without* having to certify a class, is
11 applicable in this forum;
 - 12 b. whether the pre-certification limits on discovery apply in the PAGA context
13 if, as Plaintiff asserts, class certification is not required for the PAGA claim;
 - 14 c. whether perfecting the right to proceed on behalf of current and former
15 employees by satisfying the pre-filing requirements of the PAGA gives rise
16 to the application of Rule of Professional Conduct 2-100;
 - 17 d. whether Defense counsel can contact current and former employees for
18 purposes of obtaining declarations in relation to the subject matter of this
19 lawsuit; and
 - 20 e. whether the PAGA claim will have an impact on the predominance and
21 superiority elements of Rule 23(b)(3) with respect to non-PAGA, class
22 claims, and, if not, whether Plaintiffs may proceed by adjudicating the
23 PAGA claims first and moving for class certification of the non-PAGA
24 claims afterward;
- 25 3. The Parties agree to the following briefing schedule:
 - 26 a. Plaintiff shall file an opening brief addressing these issues 90 days after this
27 Court's Order

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Pursuant to the Stipulation of the parties and good cause appearing, the Court Orders:

1. Plaintiff shall file an opening brief addressing the five issues identified in the parties' stipulation no later than January 4, 2010.
2. Defendants shall file their opposition brief no later than January 18, 2010.
3. Plaintiff may file a reply brief no later than January 25, 2010.
4. The Court will hear argument on the issues briefed on February 8, 2010 at 2:00pm.
5. All current class certification deadlines are extended by 90 days from the date the Court resolves the *Arias* issues.

IT IS SO ORDERED.

Dated: October 5, 2009



HON. MARILYN H PATEL
United States District Court Judge

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