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5 Attorneys for Plaintiff  
 Bay Area Herbs & Specialties, LLC

6 UNITED STATES DISTRICT COURT  
 7 FOR THE NORTHERN DISTRICT OF CALIFORNIA

8 BAY AREA HERBS & SPECIALTIES, LLC,

CASE NO. C 08-05466 BZ

9 Plaintiff,

**CASE MANAGEMENT  
 CONFERENCE STATEMENT &  
 REQUEST TO CONTINUE CMC**

10 v.

11 THE PRODUCE COMPANY dba  
 12 WESTSIDE PRODUCE; CHARLES  
 O'NEIL; SUSIE O'NEIL; and ELAINE  
 13 O'NEIL,

**CMC Date: August 3, 2009  
 CMC Time: 4:00 p.m.  
 CMC Place: Ctrm. G, 15<sup>th</sup> Floor  
 San Francisco**

14 Defendants.

15 Plaintiff Bay Area Herbs & Specialties, LLC respectfully requests that the Case  
 16 Management Conference and the associated dates be continued for an additional 30 days.  
 17 Defendants were served with the Complaint and Summons, they did not respond, and default was  
 18 entered by the Clerk of the Court on May 28, 2009.

19 As counsel stated in her prior CMC Statement, although the motion for default judgment  
 20 papers have been drafted, they have not yet been filed. On June 22, 2009, Defendants Charles  
 21 O'Neil and Susie O'Neil filed a bankruptcy petition in the U.S. Bankruptcy Court, Northern  
 22 District of California, Case No. 09-54917. Consequently, any further proceedings against these  
 two Defendants in this Court have been stayed. After research regarding whether the stay

1 extends to The Produce Company or Elaine O'Neil, Plaintiff's counsel has concluded that it does  
2 not. Chugach Forest Products, Inc. v. Northern Stevedoring & Handling Corp. (In re Chugach  
3 Forest Products, Inc., 23 F.3d 241, 246 (9<sup>th</sup> Cir. 1994); Advanced Ribbons and Office Products,  
4 Inc. v. U.S. Interstate Distributing, Inc. (In re Advanced Ribbons and Office Products, Inc.), 123  
5 B.R. 259 (B.A.P. 9<sup>th</sup> Cir. 1991).

6 Plaintiff's attorney had intended to file the Motion for Default Judgment this week, but  
7 Plaintiff's declaration in regard to damages is not yet completed. Consequently, Plaintiff's  
8 attorney respectfully asks for one last continuance of approximately 30 days of the Case  
9 Management Conference to allow her time to file (likely early next week) the Motion for Default  
10 Judgment against Defendants Elaine O'Neil and The Produce Company.

11 I declare under penalty of perjury under the laws of the United States that the foregoing is  
12 true and correct.

13 Date: July 30, 2009

RYNN & JANOWSKY, LLP

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By: /s/ Marion I. Quesenbery  
MARION I. QUESENBERY  
Attorneys for Plaintiff

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17 **IT IS SO ORDERED. The Case Management Conference is continued to**  
18 October 5 **2009, at** 4:00 **p.m., in Courtroom G, 15<sup>th</sup> Floor, San**  
19 **Francisco.**

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21 Date: July 31, 2009

  
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U.S. MAGISTRATE JUDGE  
BERNARD ZIMMERMAN

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