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 8 Attorneys for Defendant,  
 DESIGNED COOKIES, INC.

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 10 **UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA SAN FRANCISCO DIVISION**

12 DEBORAH NORK, LEE ROBERTS  
 and BAKER'S BOUQUET,

13  
 14 Plaintiffs,

15 v.

16 DESIGNED COOKIES, INC.,

17 Defendant.

CASE NO. C 09-5336 CRB

**STIPULATION AND ~~[PROPOSED]~~  
 ORDER REQUESTING RULING BY  
 SUBMISSION AND, IN THE  
 ALTERNATIVE, ORDER  
 CONTINUING THE HEARING DATE  
 ON DESIGNED COOKIES INC.'S  
 MOTION TO COMPEL  
 ARBITRATION**

Current Hearing Date: April 16, 2010  
 Time: 10:00 a.m.  
 Courtroom No. 8

Proposed New Hearing Date: May 28, 2010  
 Time: 10:00 a.m.  
 Courtroom No. 8

Honorable Charles R. Breyer

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 24 Pursuant to Civil Local Rule 7-7(b) of the United States District Court for the Northern  
 25 District of California, Plaintiffs Deborah Nork and Baker's Bouquet ("Plaintiffs") and  
 26 Defendant Designed Cookies, Inc. ("DCI"), by and through their respective counsel, hereby  
 27 stipulate to the following:

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1 On January 15, 2010, Defendant DCI filed a Motion To Compel Arbitration In California  
2 Before The American Arbitration Association, And To Dismiss Or Stay The Action Pending  
3 Arbitration (“Motion To Compel Arbitration”). The Motion to Compel Arbitration was  
4 originally set for hearing on February 19, 2010. Pursuant to subsequent Orders entered by the  
5 Court, DCI’s Motion To Compel Arbitration is presently set to be heard on April 16, 2010. See  
6 D.E. No. 61.

7 The parties are currently engaged in settlement discussions. In the interests of judicial  
8 economy, to preserve the parties’ resources, and to continue to facilitate settlement discussions  
9 between the remaining two plaintiffs and defendant, the Parties respectfully request that the  
10 Court rule on DCI’s Motion to Compel Arbitration by submission, rather than receive oral  
11 argument. Should the Court require oral argument on the Motion to Compel Arbitration, the  
12 Parties respectfully request that the hearing on DCI’s Motion To Compel Arbitration should be  
13 continued to May 28, 2010 at 10:00 a.m.

14 This is the third stipulation to modify the hearing date on DCI’s Motion To Compel  
15 Arbitration. The requested extension on the hearing date will not affect the schedule for the  
16 case.

17 Dated: April 14, 2010

GARDERE WYNNE SEWELL LLP,  
CONNOR SHEEHAN, ESQ.

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20 By: /s/ Connor Sheehan  
CONNOR G. SHEEHAN

21 Attorneys for Defendant  
22 DESIGNED COOKIES, INC.  
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Dated: April 14, 2010

ZARCO EINHORN SALKOWSKI & BRITO, P.A.  
ROBERT ZARCO, ESQ.

By: /s/ Himanshu M. Patel  
HIMANSHU M. PATEL

Attorneys for Plaintiffs  
DEBORAH NORK, LEE ROBERTS AND BAKER'S  
BOUQUET

ATTESTATION CLAUSE

I attest under penalty of perjury that the concurrence in the filing of this document has been  
obtained from its signatories.

By: /s/ Connor Sheehan  
Connor G. Sheehan

DECLARATION OF CONNOR SHEEHAN

I, Connor Sheehan, declare as follows:

1. I am an attorney at law admitted pro hac vice to practice before this Court and am an associate of the law firm of Gardere Wynne Sewell LLP, counsel of record for Defendant Designed Cookies, Inc. (“DCI”). I make this declaration in support of the attached Stipulation and [Proposed] Order Granting the Parties Request to for Ruling by Submission and Alternatively, Continuing The Hearing Date On Designed Cookies Inc.’s Motion To Compel Arbitration In California before the American Arbitration Association And To Dismiss Or Stay The Action Pending Arbitration. I have personal knowledge of the matters set forth herein and could competently testify to them if called upon to do so.

2. On January 15, 2010, DCI filed a Motion To Compel Arbitration In California Before The American Arbitration Association, And To Dismiss Or Stay The Action Pending Arbitration (“Motion To Compel Arbitration”).

3. DCI’s Motion To Compel Arbitration is presently set to be heard on April 16, 2010.

4. The parties are currently engaged in settlement discussions. The parties respectfully request that in the interests of judicial economy, to preserve the parties’ resources, and to facilitate settlement discussions, the hearing on DCI’s Motion To Compel Arbitration be ruled on by submission or, alternatively, continued to May 28, 2010.

5. This is the third stipulation to modify the hearing date on DCI’s Motion To Compel Arbitration. This Court previously extended the deadline for DCI to respond to the complaint, previously extended the hearing date on DCI’s Motion To Compel Arbitration, and previously extended the ADR and case management deadlines in this case, including the date of the initial case management conference.

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6. The requested extension on the hearing date on the Motion to Compel Arbitration will not affect the schedule for the case.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 14<sup>th</sup> day of April 2010 in Dallas, Texas.

By: /s/ Connor Sheehan  
Connor G. Sheehan

1 ~~[PROPOSED]~~ ORDER GRANTING REQUEST FOR RULING BY SUBMISSION

2 Pursuant to the parties' stipulation and good cause appearing, it is hereby ordered that  
3 Designed Cookies Inc.'s Motion To Compel Arbitration In California Before The American  
4 Arbitration Association And To Dismiss Or Stay The Action Pending Arbitration shall be ruled  
5 on by submission.

6 IT IS SO ORDERED.

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8 Dated: \_\_\_\_\_

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HONORABLE CHARLES R. BREYER  
UNITED STATES DISTRICT COURT JUDGE

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~~PROPOSED~~ ORDER CONTINUING HEARING

Pursuant to the parties' stipulation and Local Rule 7-7(b) and good cause appearing, it is hereby ordered that the hearing on Designed Cookies Inc.'s Motion To Compel Arbitration In California Before The American Arbitration Association And To Dismiss Or Stay The Action Pending Arbitration shall be continued to May 28, 2010 at 10:00 a.m. in Courtroom 8.

IT IS SO ORDERED.

Dated: April 15, 2010

