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10 Attorneys for Plaintiffs

11 UNITED STATES DISTRICT COURT
 12 NORTHERN DISTRICT OF CALIFORNIA
 13 SAN FRANCISCO DIVISION

14 DEBORAH NORK, LEE ROBERTS and
 15 BAKER'S BOUQUET,

16 Plaintiffs,

17 vs.

18 DESIGNED COOKIES, INC.,

19 Defendants.

No. CV 09-5336 CRB

STIPULATION AND ORDER
 CONTINUING INITIAL CASE
 MANAGEMENT CONFERENCE

Current Initial Case Management
 Conference Date: October 15, 2010
 at 8:30 a.m. in Courtroom 8

Proposed New Initial Case Management
 Conference Date: November 12, 2010
 at 8:30 a.m. in Courtroom 8

The Honorable Charles R. Breyer

22 Pursuant to Civil Local Rules 6-1(b) and 6-2 of the United States District Court for the
 23 Northern District of California, Plaintiff, Baker's Bouquet ("Baker's") and Defendant Designed
 24 Cookies, Inc. ("DCI"), by and through their respective counsel, hereby stipulate and agree to the
 25 following:
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27 1. On September 16, 2010 and pursuant to a Stipulation filed by the parties, the Court
 28 entered an Order Continuing Initial Case Management Conference in the above-referenced
 Case No. CV 09-5336 CRB

1 matter. *See* D.E. #96. While the parties had requested that the Case Management Conference
2 be continued from September 17, 2010 at 8:30 a.m. to October 8, 2010 at 8:30 a.m., the Court,
3 in fact, continued the Case Management Conference to October 15, 2010 at 8:30 a.m. *See* D.E.
4 #96.

5 2. As the parties previously advised the Court, Baker's and DCI have preliminary
6 reached a settlement and DCI forwarded a draft Settlement Agreement to one of DCI's
7 principals on September 14, 2010. *See* D.E. #96. Baker's principal has been out of the country
8 and has not had an opportunity to review and finalize the terms of settlement with DCI as of the
9 date of the filing of the instant Stipulation. Barring something unexpected, the parties do expect
10 to finalize the material terms of settlement and execute a written Settlement Agreement in the
11 very near future.

12 3. In addition, during the period from October 13, 2010 through October 15, 2010,
13 Baker's attorneys, Robert Zarco, Esq. and Himanshu M. Patel, are scheduled to be in San Diego,
14 California to attend the American Bar Association's Forum on Franchising, at which two (2) of
15 Messrs. Zarco and Patel's partners are guest speakers.

16 4. Based on DCI's principal's unavailability and the conflict of Baker's counsel, and
17 in the interests of judicial economy, to preserve the parties' resources, the Parties respectfully
18 request that this Honorable Court continue the Initial Case Management Conference from
19 October 15, 2010 at 8:30 a.m. to November 12, 2010 at 8:30 a.m.

20 5. Alternatively, if the Court is inclined to proceed with the Initial Case Management
21 Conference on October 15, 2010 at 8:30 a.m., Baker's respectfully requests that this Honorable
22 Court permit counsel to appear telephonically at the Initial Case Management Conference. The
23 Court will be able to reach Mr. Patel at (407) 341-4008 and Ms. Williams at (415) 601-2096.

24 **WHEREFORE**, Plaintiff, BAKER's BOUQUET, INC., and Defendant, DESIGNED
25 COOKIES, INC., respectfully request that this Honorable Court enter an Order: (i) granting the
26 instant Stipulation Continuing Initial Case Management Conference, or in the Alternative,
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1 Stipulation for Plaintiff to Appear Telephonically; and (ii) granting such other and further relief
2 as this Honorable Court deems just and proper.

3 Respectfully submitted,

4 Dated: October 12, 2010

ZARCO EINHORN SALKOWSKI & BRITO, P.A.

6 By: /s/ Himanshu M. Patel
HIMANSHU M. PATEL
7 Attorneys for Plaintiff

8 Dated: October 12, 2010

LOVE & ASSOCIATES

10 By: /s/ Kristen L. Williams
KRISTEN L. WILLIAMS
11 Attorneys for Defendant

12 ATTESTATION CLAUSE

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

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

DECLARATION OF HIMANSHU M. PATEL

I, Himanshu M. Patel, declare as follows:

1. I am an attorney at law duly admitted to practice before this Court and am a Partner with the law firm of Zarco Einhorn Salkowski & Brito, P.A., attorneys of record for Plaintiffs in this action. I make this declaration in support of the instant Stipulation and [Proposed] Order Continuing Initial Case Management Conference, or in the Alternative, Stipulation and [Proposed] Order for Plaintiff to Appear Telephonically. I have personal knowledge of the matters set forth herein and could competently testify to them if called upon to do so.

2. On September 16, 2010 and pursuant to a Stipulation filed by the parties, the Court entered an Order Continuing Initial Case Management Conference in the above-referenced matter. *See* D.E. #96. While the parties had requested that the Case Management Conference be continued from September 17, 2010 at 8:30 a.m. to October 8, 2010 at 8:30 a.m., the Court, in fact, continued the Case Management Conference to October 15, 2010 at 8:30 a.m. *See* D.E. #96.

3. As the parties previously advised the Court, it is my understanding that Baker's and DCI have preliminary reached a settlement and DCI forwarded a draft Settlement Agreement to one of DCI's principals sometime around September 14, 2010. *See* D.E. #96. I have also been advised by one of Baker's shareholders that Baker's main principal that has been in negotiations with DCI is currently out of the country and has not had an opportunity to review the terms contained in the written Settlement Agreement.

4. In addition, during the period from October 13, 2010 through October 15, 2010, Robert Zarco and I are scheduled to be in San Diego, California to attend the American Bar Association's Forum on Franchising, at which two (2) of our partners are guest speakers.

5. Based on DCI's principal's unavailability and our conflict with the October 15, 2010 date, and in the interests of judicial economy and to preserve the parties' resources, the Parties respectfully request that this Honorable Court continue the Initial Case Management Conference from October 15, 2010 at 8:30 a.m. to **November 12, 2010 at 8:30 a.m.**

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6. Alternatively, if the Court is inclined to proceed with the Initial Case Management Conference on October 15, 2010 at 8:30 a.m., Baker's respectfully requests that this Honorable Court permit counsel to appear telephonically at the Initial Case Management Conference. The Court can reach me at (407) 341-4008. Ms. Williams has advised that she can be reached at (415) 601-2096.

7. This is the seventh (7th) stipulation to modify the schedule set by the Order Setting Initial Case Management Conference And ADR Deadlines [D.E. #3] and the Clerk's Notice dated December 16, 2009 [D.E. #18]. The Parties request the extension not for delay but because of both Plaintiff's counsel's conflict and also in the hopes that the parties may finalize and execute the written Settlement Agreement without incurring additional expenses.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 12th day of October 2010 in Miami, Miami-Dade County, Florida.

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

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ORDER

Pursuant to the parties' stipulation and Local Rule 6-1(b) and 6-2 and good cause appearing, it is hereby ordered that: (i) the Initial Case Management Conference shall be continued from October 15, 2010 at 8:30 a.m. to November 12, 2010 at 8:30 a.m.

IT IS SO ORDERED.

Dated: October 14, 2010

