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

15 DAVID M. CATHCART, JAMES H.
 16 WHITEHEAD, ROBERT W. DECKER, DALE
 BALDISSERI, individually, and on behalf of all
 17 others similarly situated,

18 Plaintiff,

19 v.

20 SARA LEE CORPORATION, SARA LEE
 BAKERY GROUP, EARTHGRAINS BAKING
 21 COMPANIES, INC. (formerly sued as DOE 1)
 and DOES 2 through 20,

22 Defendants.
 23

Case No. CV 09-5748 MMC

**STIPULATION FOR LEAVE TO
 MODIFY THE SCHEDULING ORDER
 TO CONTINUE MEDIATION
 DEADLINE, BRIEFING SCHEDULE,
 AND DATE FOR CLASS
 CERTIFICATION HEARING AND
 STATUS CONFERENCE**

~~PROPOSED~~ ORDER

The Honorable Maxine M. Chesney

24
 25 The parties stipulate as set forth in the numbered paragraphs below, based on the
 26 following facts:

27 A. The Scheduling Order (Dkt. #33) set forth initial deadlines in this case. The Order
 28 scheduled, among other things, dates for briefing the parties' initial motions and

1 cross-motions for partial summary judgment, a date for the hearing on the partial
2 summary judgment motions, dates for briefing class certification, and dates for the
3 hearing on class certification and a status conference.

4 B. Since then, pursuant to stipulated orders, those dates and others have been continued,
5 to accommodate document production by Defendants, counsel for Plaintiffs' class
6 action jury trial in another case, and other matters. (Dkt. #52, 56, 58, 60, 68, 77, 79.)
7 The parties have actively engaged in discovery, including the exchange of more than
8 100 written discovery requests, the production of thousands of pages of documents,
9 and several depositions.

10 C. Based on recent developments described below, the parties now jointly request an
11 additional extension, approximately 60 days, of the deadline for mediation and the
12 other deadlines in the amended scheduling order.

13 D. Defendants report that on November 5, 2011, Grupo Bimbo S.A.B. de C.V. and its
14 US subsidiary BBU, Inc. ("BBU") completed the acquisition of the Sara Lee U.S.
15 fresh baking business, including the stock of Defendants Sara Lee Bakery Group and
16 Earthgrains Baking Companies, Inc. Counsel for BBU has elected to replace
17 Defendants' counsel with John Battenfeld and Michael Puma of Morgan, Lewis &
18 Bockius LLP, which was communicated to Defendants' prior counsel on December 7,
19 2011. Defendants' prior counsel filed a Substitution of Counsel on December 19,
20 2011, confirming the replacement.

21 E. As a result of the sale of the Sara Lee U.S. fresh baking business and the related
22 transition to the undersigned counsel, as well as Defendants' collection of additional
23 data and information to share with Plaintiffs for settlement purposes in advance of the
24 mediation, the parties believe that additional time is required before they will be
25 prepared to have the best chance of success at a mediation, which currently is
26 scheduled for January 9, 2011. By the terms of the current Scheduling Order,
27 mediation must be completed by January 31, 2011.

28 F. Also supporting the parties' joint request for extension of the applicable deadlines is

1 Plaintiffs' counsel's agreement with Defendants' new counsel to replace the planned
2 panel mediator with a new mediator, Jeff Krivis, who is one of the most active and
3 experienced mediators in California in the field of wage and hour class and collective
4 actions. However, Mr. Krivis does not have any dates available that also would work
5 for the parties until the second half of March 2012.

6 G. Under the current briefing and hearing schedule for class certification, with a
7 mediation postponed until March 2012, the parties would have to pursue remaining
8 discovery during the period preceding the mediation and thus would incur substantial
9 additional fees and costs that could be an impediment to a resolution at the mediation.

10 H. The current deadlines are as follows (per Dkt. #79):

- 11 1. Deadline to complete mediation: January 31, 2012.
- 12 2. Deadline for Plaintiffs to file motion for class certification: May 25, 2012.
- 13 3. Deadline for Defendants to file opposition to motion for class certification: July
14 13, 2012.
- 15 4. Deadline for Plaintiffs to file reply in further support of motion for class
16 certification: August 31, 2012.
- 17 5. Hearing on motion for class certification: September 21, 2012, at 9:00 a.m.
- 18 6. Joint Case Management Conference Statement due: October 26, 2011.
- 19 7. Case Management Conference: November 2, 2012, at 10:30 a.m.

20 WHEREFORE, THE PARTIES STIPULATE and request that the Court order that the
21 Scheduling Order (Dkt. #33) be modified to reflect the deadlines listed below, which retain
22 approximately the same intervals as presently exist between the successive dates:

- 23 1. Deadline to complete mediation: extended from January 31, 2012 to March 31, 2012.
- 24 2. Deadline for Plaintiffs to file motion for class certification: extended from May 25,
25 2012 to July 27, 2012.
- 26 3. Deadline for Defendants to file opposition to motion for class certification: extended
27 from July 13, 2012 to September 14, 2012.

