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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ELLIOT ZEISEL, on behalf of himself and all
others similarly situated,

Plaintiffs,

v.

DIAMOND FOODS, INC., a Delaware
corporation,

Defendant.

Case No. 3:10-cv-01192 JSW (EDL)

JOINT STIPULATED REQUEST AND
~~[PROPOSED]~~ ORDER AMENDING
FEBRUARY 3, 2011 ORDER
SCHEDULING TRIAL AND PRETRIAL
MATTERS AS MODIFIED HEREIN

Date Complaint Filed: March 22, 2010

Pursuant to this Court's Civil Standing Orders, October 19, 2010 Order Scheduling Trial and Pretrial Matters, February 3, 2011 Order Amending October 19, 2010 Order Scheduling Trial and Pretrial Matters and Civil Local Rules 6-2, 7-1(a) and 7-12, Plaintiff Elliot Zeisel ("Plaintiff") and Defendant Diamond Foods, Inc. ("Diamond") (collectively, the "Parties") stipulate and agree as follows:

WHEREAS, on October 19, 2010 the Court entered its Order Scheduling Trial and Pretrial Matters [Docket No. 41] ("2010 Scheduling Order");

WHEREAS, on February 3, 2011 the Court modified the 2010 Scheduling Order pursuant to the parties' Joint Stipulated Request and entered its Order Amending Order Scheduling Trial and Pretrial Matters [Docket No. 66] ("2011 Scheduling Order");

WHEREAS, the Parties have since agreed to mediate this case and are scheduling a mediation in San Francisco for August 2011;

WHEREAS, the Parties agree that mediation will be more successful if conducted before significant expert discovery costs are incurred;

WHEREAS, the Parties have been working diligently and expeditiously to conduct fact discovery in this matter, have successfully reached agreement on nearly all discovery issues to date and respectfully request a two-month extension of the discovery cut-off dates and trial date to allow for the proposed mediation before expert discovery and to accommodate the scheduling matters – mostly related to third-party objections and motions – described in the accompanying declarations;

THEREFORE, the undersigned Parties submit this stipulated request and respectfully request the Court amend the 2011 Scheduling Order as follows:

Jury Trial Date: Monday, 1/30/2012, at 8:00 a.m., 10-day estimate (*previously 11/28/2011*)

Pretrial Conference: Monday, 1/9/2012, at 2:00 p.m. (*previously 11/7/2011*)

Last Day to Hear Dispositive Motions: Friday, 12/16/2011, 9:00 a.m. (*previously 9/2/2011*)

Last Day for Expert Discovery: Friday, 10/21/2011 (*previously 7/27/2011*)

Last Day for Expert Disclosure: Friday, 9/30/2011 (*previously 7/12/2011*)

Close of Non-Expert Discovery: Wednesday, 8/31/2011 (*previously 6/27/2011*)

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Further Case Management Conference: Friday, 6/17/2011, 1:30 p.m. (*no change*)

Joint Supplemental Case Management Statement due: Friday, 6/10/2011 (*no change*)

IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

Respectfully submitted,

Dated: June 9, 2011

STEMBER FEINSTEIN DOYLE & PAYNE, LLC

By: /s/ Joseph N. Kravec, Jr.
Joseph N. Kravec, Jr.
Attorneys for Plaintiff
ELLIOT ZEISEL

Dated: June 9, 2011

WINSTON & STRAWN LLP

By: /s/ Amanda L. Groves
Amanda L. Groves
Attorneys for Defendant
DIAMOND FOODS, INC.

I, Amanda L. Groves, hereby attest, pursuant to N.D. Cal. General Order No. 45, that the concurrence to the filing of this document has been obtained from each signatory hereto.

/s/ Amanda L. Groves
Amanda L. Groves

PURSUANT TO STIPULATION, IT IS SO ORDERED AS MODIFIED HEREIN

June 13, 2011

Date

Jeffrey S. White
The Honorable Jeffrey S. White
United States District Judge

The deadline to hear dispositive motions is scheduled for Friday, November 4, 2011 at 9:00 a.m. The parties' proposal extends the existing deadlines by more than two months, and it does not leave sufficient time between the hearing and the pretrial conference for the parties to meaningfully prepare the pretrial filings, which are due fourteen days in advance of the pretrial conference.

In addition, the Court VACATES the Case Management Conference set for June 17, 2011.