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Attorneys for Defendants

Attorneys for Plaintiffs

12 IN THE UNITED STATES DISTRICT COURT
 13 FOR THE NORTHERN DISTRICT OF CALIFORNIA – SAN FRANCISCO

15 Gene Jovich and Hung Tran, individually and on
 behalf of all others similarly situated,

Plaintiffs,

vs.

18 Southern Wine & Spirits of America, Inc., a
 19 Florida Corporation,

Defendant.

Case No.: CV 10-04405 JSW

**STIPULATION AND ~~PROPOSED~~ ORDER
 CONTINUING CASE MANAGEMENT
 CONFERENCE**

Date: April 27, 2012

Time: 1:30 p.m.

Ctrm: 11

Judge: Hon. Jeffrey S. White

Assigned to Hon. Nandor J. Vadas for mediation

1 The parties hereby stipulate that the Court may, and jointly request that it should, modify its
2 previously entered Order requiring mediation before Magistrate Judge Nandor J. Vadas and continue
3 the Case Management Conference currently scheduled for April 27, 2012 to June 15, 2012, or another
4 date (consistent with counsel's availability dates as described below) convenient to the Court.

5 This Stipulation and request is based on the following facts:

6 A. The parties have diligently pursued the steps necessary to prepare for a return to
7 mediation. In particular, they have jointly commissioned a renewed survey of mileage driven by a
8 representative sample of class members over a five-week test period, with the results to be determined
9 by a neutral third-party consultant and reported to the parties jointly in order to provide, the parties
10 hope, the basis for fully informed negotiations. The survey period is scheduled to end in late March
11 and the results should be reported to the parties by the beginning of April.

12 B. The parties have agreed that the scope and complexity of the claims in the case warrant
13 the more extended time availability of a private mediator, and that it would be advantageous to return
14 to mediation before Justice Edward Panelli of JAMS, who conducted a previous mediation session in
15 May 2011.

16 C. The parties have scheduled an all-day mediation session with Justice Panelli at JAMS
17 on May 9, 2012, the earliest time they and the mediator were able to agree on. Although the outcome
18 of the mediation process may be known immediately after the mediation session, it is also possible that
19 negotiations might continue for a few days or several weeks before impasse or settlement is reached, as
20 sometimes happens in the mediation process.

21 D. Counsel for the parties believe that it would be appropriate for the Court to continue the
22 CMC for sufficient time to allow the mediation process to be completed to a definite result.

23 E. Plaintiffs' undersigned lead counsel is unavailable, due to previously scheduled travel
24 commitments on the four Fridays (the days of the Court's CMC calendar) following the week of the
25 scheduled mediation. The undersigned's first Friday available for an appearance at a CMC would be
26 June 15, 2012. Continuing the CMC to that date, or a later date, would also allow the parties an ample
27 opportunity to complete a settlement, should the mediation produce an agreement, or to meet and
28

1 confer on a plan and schedule for filing of the motion for class certification, should agreement not be
2 reached.

3 For the reasons stated above, the parties jointly request that the Court enter an Order:

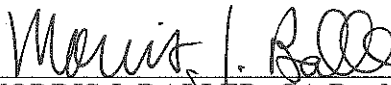
- 4 1. Confirming that the parties' private mediation under the auspices of JAMS shall fulfill
- 5 and replace the requirement for mediation before the Magistrate Judge.
- 6 2. Continuing the Case Management Conference from April 27, 2012 to June 15, 2012 or
- 7 such later date as the Court chooses.

8 A proposed Order is set forth below.

9 Dated: March 23, 2012

Respectfully submitted,

10 GOLDSTEIN, DEMCHAK, BALLER, BORGAN &
11 DARDARIAN

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21 ATTORNEYS FOR PLAINTIFFS

22 Dated: March 23, 2012


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27 Attorneys for Defendants

~~PROPOSED~~ ORDER

Upon the parties' stipulation, and for good cause shown, it is hereby ORDERED that:

1. The parties shall be permitted to conduct private mediation proceedings before JAMS, in lieu of the previously ordered mediation before Judge Vadas; and
2. The Case Management Conference previously scheduled in this case for April 27, 2012, shall be continued to June 15, 2012, at 1:30pm. The parties shall file a Joint Statement at least seven days before the Conference, either confirming that they have reached agreement to settle the case, or proposing a schedule for the filing of plaintiffs' motion for class certification.

Dated: March 26, 2012



 UNITED STATES DISTRICT JUDGE

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