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December 28, 2012

Magistrate Judge Jacqueline Scott Corley
US District Court for the Northern District of California
Courtroom F
450 Golden Gate Ave., 15th Fl.
San Francisco, CA 94102

Re: Jenkins v. Mandelbaum
Case No. C-11-00211-EMC (JSC)
Our File No.: CNAL.114787.1

Dear Honorable Magistrate Judge Jacqueline Scott Corley:

Pursuant to paragraph 3 of Your Honor's Notice of Settlement and Settlement Conference Order dated November 14, 2012 in the above-titled matter, Defendant Hiscock & Barclay, LLP ("H&B") respectfully requests the Court excuse its East Coast representatives from personally attending the upcoming January 8, 2013 settlement conference. We have met and conferred with plaintiff's counsel, Richard Idell, to determine if plaintiff has any objections to Defendant Hiscock & Barclay, LLP's absence from personally attending the settlement conference. Plaintiff's counsel agreed that the reasons for the excuse from personally attending the settlement conference were reasonable and warranted under the circumstances and plaintiff has no objection.

Attached are fully executed declarations from Robert A. Barrer, an attorney and partner with Defendant Hiscock & Barclay, LLP, as well as William H. Jeberg, an attorney and partner with Mendes and Mount, LLP (representatives of H&B's insurance carrier for this case). The declarations confirm that H&B's attorney of record, James A. Murphy of Murphy, Pearson, Bradley & Feeney, will personally appear at the scheduled settlement conference and will have full authority to negotiate in good faith a resolution, if possible, of the claims against H&B. What's more, the declarations provide that H&B's offices are located on the East Coast and there are no direct flights from any of the cities in which H&B has an office. As a result, personal appearance of one of H&B's partners at the scheduled settlement conference in San Francisco would create an undue expense and burden on their work and take them away from matters that require attendance in the office.

Furthermore, settlement of this case depends in large part to the outcome of the related federal action, entitled *Fredianelli v. Mandelbaum* (Case No. 3:11-cv-03232-EMC), which is

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still pending and scheduled for summary judgment hearing on January 23, 2013. The outcome in *Fredianelli* will define plaintiffs' alleged scope of damages, which at the moment, remain largely speculative and contingent upon potential outcomes in the *Fredianelli* lawsuit. Because plaintiff's alleged damages are contingent upon resolution and/or adjudication in *Fredianelli* (which will not be resolved, if at all, before the upcoming summary judgment hearing), negotiation at the scheduled January 8, 2013 settlement conference will most likely be stalled. To that end, personal appearance and the expense associated with that appearance by H&B is not warranted.

In closing, H&B respectfully requests that this court excuse H&B from personally appearing at the January 8, 2013 settlement conference and permit their representatives to appear by telephone. Of course, counsel for H&B, James A. Murphy, will appear in person at the settlement conference with full authority to settle the action, if at all possible.

Thank you for your consideration.

Very truly yours,

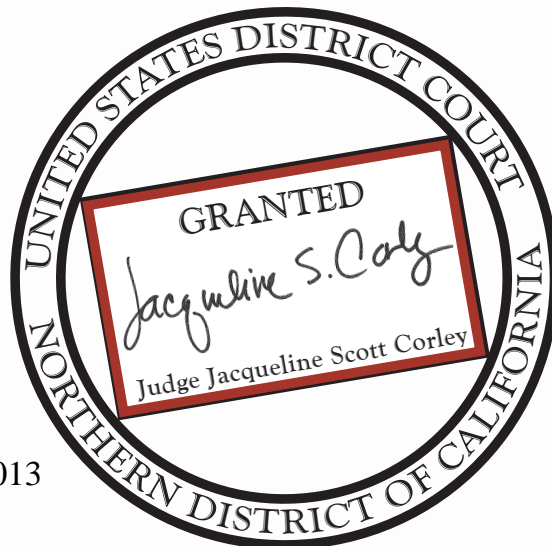


James A. Murphy
Jason E. Fellner

Enclosure

JEF.20519823.doc

cc: [All Counsel of Record]



Dated: January 4, 2013