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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

TETSUO AKAOSUGI, HIEU NGUYEN, and
RINKO DONAHUE, on behalf of themselves
and all others similarly situated,

No. C 11-01272 WHA

Plaintiffs,

**ORDER RE NOTICE OF
PROPOSED SETTLEMENT OF
VACATION PAY CLASS CLAIMS**

v.

BENIHANA NATIONAL CORPORATION,

Defendant.

By order dated May 10, 2012, a vacation-pay terminated-employee class was certified under Rule 23(b)(3) and a vacation-pay current-employee class was certified under Rule 23(b)(2) to pursue specified claims (Dkt. No. 154). The parties have submitted a stipulation and proposed order indicating that at a settlement conference with Magistrate Judge Joseph Spero they reached a tentative settlement with respect to the two vacation pay classes that have been certified. As such, the parties have requested that the Court refrain from ruling on the recently filed proposed plan of class notice distribution and proposed form of class notice. The parties have also requested a continuance of various deadlines set in the case management order.

BY JUNE 18, 2012, counsel must file a motion for approval of the proposed settlement agreement, explaining how all of the considerations set forth in the memorandum opinion regarding factors to be evaluated for any proposed class settlement are satisfied (*See* Dkt. No. 16). The following shall be appended to the motion: (1) a signed copy of the full and complete proposed class settlement; (2) a final damages expert report (so the Court can review the

1 percentage recovery for the damages class); and (3) a proposed form of notice of class action and
2 proposed class settlement and proposed distribution plan.

3 The Court will defer ruling on the recently submitted proposed plan of class notice
4 distribution and proposed form of class notice.

5 The parties have requested a continuance of the discovery cutoff date for non-expert
6 discovery, with respect to the vacation pay class claims, from June 29, 2012, to September 4,
7 2012. The request is **GRANTED**.

8 The parties have requested a continuance of the deadline for filing expert reports, with
9 respect to the vacation pay class claims, from June 29, 2012 to September 4, 2012. The
10 deadlines for filing plaintiffs' expert report will not be extended. This report must be submitted
11 with the motion for approval of the settlement, as stated above. The deadline for all other expert
12 reports will be continued. How much time will be given will depend on the facts as determined
13 by the Court after its review of the motion for approval of the proposed settlement and appended
14 documents.

15 The parties have requested a continuance of the deadline for filing dispositive motions,
16 with respect to the vacation pay class claims from August 2, 2012, to September 4, 2012. The
17 deadline for filing dispositive motions will not be continued at this time. The request is **DENIED**
18 **WITHOUT PREJUDICE**.

19 The parties have requested a stay of discovery, with respect to the vacation pay class
20 claims, "until after the Court issues its ruling with respect to preliminary approval of the
21 settlement." A stay of discovery will not be granted at this time. Counsel may renew this
22 request after filing the motion for approval of the settlement. The request is **DENIED WITHOUT**
23 **PREJUDICE**.

24

25 **IT IS SO ORDERED.**

26

27 Dated: June 5, 2012.

28



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE