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

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

Plaintiffs,

v.

BENIHANA INC., d/b/a BENIHANA
NATIONAL CORPORATION, and
DOES 1 through 50,

Defendants.

No. C 11-01272 WHA

**ORDER ON MOTION TO
ENLARGE TIME FOR
CLASS CERTIFICATION**

Plaintiffs' filed a motion to enlarge time for class certification. Defendants oppose. The current deadline to file a motion for class certification is December 1, 2011 (Dkt. No. 25). Plaintiffs request the deadline be continued to February 29, 2012.

Plaintiffs assert that absent enlargement of time to file the motion for class certification, plaintiffs and the putative class members risk substantial harm and irreversible prejudice. In support of their argument, plaintiffs state defendants have caused unjustified delays in litigating this matter by denying plaintiffs access to a putative class list (Br. 4). On October 13, defendants were ordered to produce a contact list for salaried managers pursuant to the terms of the order (Dkt. No. 46). Plaintiffs also contend that until there is an order on the motion to dismiss, which is scheduled to be heard on November 17, 2011, plaintiffs will lack certainty as to the identities of the parties, the scope of the putative class, and range of potential common issues (Br. 4).

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Defendants respond that plaintiffs delayed in filing the amended complaint, even though, in March 2011, counsel for defendants made plaintiffs aware they would need to amend their complaint to add the subsidiary corporations, which employ some of the putative class members (Hart Decl. ¶ 2). Defendants further argue that plaintiffs cannot now use their own delay as an excuse to alter the briefing schedule and that plaintiffs have been in possession of all discovery necessary to move for class certification since July 2011 (Opp. 2).

There is good cause to continue the deadline to file a motion for class certification for a short period of time. The deadline to file a motion for class certification will be extended to **JANUARY 3, 2012**. This extension will not affect any other deadlines set forth in the case management order.

IT IS SO ORDERED.

Dated: October 24, 2011.



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE