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United States District Court
For the Northern District of California

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,

No. C 11-01272 WHA

Plaintiffs,

**ORDER ON DEFENDANT’S MOTION
TO CONTINUE BRIEFING, ENLARGE
BRIEFING SCHEDULE, AND TAKE UP
TO TWENTY DEPOSITIONS**

v.

BENIHANA NATIONAL
CORPORATION, INC.,

Defendant.

In this meal and rest break action, defendant Benihana National Corporation has filed an administrative motion seeking: (1) to continue the briefing and hearing on plaintiffs’ motion for partial summary judgment until after plaintiffs’ motion for class certification is decided; (2) to enlarge the briefing schedule on plaintiffs’ motion for class certification; and (3) to allow BNC to take up to twenty depositions. Plaintiffs oppose.

The briefing and hearing on plaintiffs’ motion for partial summary judgment will be postponed. *See* FRCP 23(d)(1). On January 3, 2012, plaintiffs noticed their motions for class certification and for partial summary judgment to be heard on February 9. Plaintiffs move for partial summary judgment as to defendant’s thirty-seventh affirmative defense (Dkt. No. 37 at 13). The current briefing schedule and the hearing for the motion for partial summary judgment are hereby **VACATED**. A new briefing and hearing schedule for the motion for partial summary judgment will be set after the motion for class certification is decided.

1 Defendant also seeks to renew its motion to enlarge the briefing schedule on plaintiffs’
2 motion for class certification. The prior order denying defendant’s motion to enlarge the briefing
3 schedule stated that the denial was “without prejudice to making a new motion to extend the
4 briefing schedule in the event that the motion for class certification is sufficiently complex and
5 fact intensive that it requires more time to respond” (Dkt. No. 59). Having reviewed the motion
6 for class certification, which seeks to certify three subclasses, and the voluminous exhibits
7 appended thereto, the order concludes it is sufficiently complex to warrant a short extension of
8 the briefing schedule. The opposition brief will be due **FEBRUARY 6**, and the reply will be due
9 **FEBRUARY 21**. The hearing will be at **8:00 A.M. ON MARCH 1**.

10 Defendant has already taken three depositions in this action and requests leave to take up
11 to 20 depositions. The request to take up to 20 depositions is **DENIED**. After defendant has taken
12 nine depositions, it may renew its request to take additional depositions.

13
14 **IT IS SO ORDERED.**

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16 Dated: January 10, 2012.



17 WILLIAM ALSUP
18 UNITED STATES DISTRICT JUDGE