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9 Attorneys for Defendant
 10 DREYER'S GRAND ICE CREAM, INC.

11
 12 **UNITED STATES DISTRICT COURT**
 13 **NORTHERN DISTRICT OF CALIFORNIA**
 14 **SAN FRANCISCO DIVISION**

15 SKYE ASTIANA, et al.,
 16 Plaintiffs,

17 vs.

18 DREYER'S GRAND ICE CREAM, INC.,
 19 Defendant.

20 _____
 21 PAMELA RUTLEDGE-MUHS, et al.,
 22 Plaintiffs,

23 v.

24 DREYER'S GRAND ICE CREAM, INC.,
 25 Defendant.

) Case No. C11-02910 EMC
) consolidated with
) Case No. C11-3164 EMC

) **STIPULATION AND [proposed]**
) **ORDER (1) CONTINUING**
) **DECEMBER 16, 2011 INITIAL CASE**
) **MANAGEMENT CONFERENCE, (2)**
) **VACATING RESPONSE DATE TO**
) **COMPLAINT, AND (3)**
) **CONFIRMING THAT THE PARTIES**
) **WILL TEMPORARILY FOREGO**
) **LITIGATION ACTIVITIES**

1 Plaintiffs Skye Astiana, Pamela Rutledge-Muhs and Jay Woolwine and defendant
2 Dreyer's Grand Ice Cream, Inc., now known as Nestlé Dreyer's Ice Cream Co.
3 ("Dreyer's"), by and through their respective counsel of record and pursuant to Local
4 Rules 6-2 and 7-12, enter into the following stipulation for an order (1) continuing the
5 December 16, 2011 initial case management conference to February 24, 2012, (2)
6 vacating the last day for Dreyer's to respond to the initial complaint, to be re-set, as
7 appropriate, at the February 24, 2012 case management conference, and (3) confirming
8 that the parties will forego litigation activities for a short period, all to facilitate further
9 mediation of this consolidated action without having simultaneously to expend the
10 Court's and parties' time and resources on litigation:

11 WHEREAS, on June 14, 2011, plaintiff Astiana filed her initial complaint (Dkt.
12 #1);

13 WHEREAS, on June 27, 2011, plaintiffs Rutledge-Muhs and Woolwine filed
14 their initial complaint (Dkt. # 1 in Case No. C11-3164 EMC);

15 WHEREAS, on July 6, 2011, plaintiff Astiana and Dreyer's agreed to extend the
16 time for Dreyer's to respond to the *Astiana* complaint for 30 days (Dkt. #11);

17 WHEREAS, on August 18, 2011, the two complaints were deemed "related" and
18 *Rutledge-Muhs* was re-assigned to this department (Dkt. #17);

19 WHEREAS, on August 22, 2011, the Court issued an order setting a single case
20 management conference for both cases for October 28, 2011 (Dkt. #18);

21 WHEREAS, on August 31, 2011, the court continued the October 28, 2011 initial
22 case management conference to December 16, 2011 and extended Dreyer's time to
23 respond to the complaints in the related actions until 30 days following the completion
24 of a planned November 30, 2011 mediation (Dkt. #31);

25 WHEREAS, on September 30, 2011, the Court consolidated the two cases for all
26 purposes, designating the *Astiana* complaint as the single active complaint and relieving
27 Dreyer's from any obligation to respond to the *Rutledge-Muhs* complaint (Dkt. #27);
28

1 WHEREAS, on November 30, 2011, the parties engaged in a full day mediation
2 session in New York, New York, before David Geronemus of JAMS, and while the
3 parties were unable to settle the matter during the first day of mediation, sufficient
4 progress was made that the parties believe a second day of mediation is appropriate and
5 warranted;

6 WHEREAS, the parties have agreed to convene at least one additional day of
7 mediation in an effort to exhaust all possibilities of settlement, and also have agreed to
8 exchange or obtain certain information prior to the agreed-upon second day of
9 mediation;

10 WHEREAS, because of the time required to exchange or obtain the agreed-upon
11 information, as well as the time necessary to analyze the information prior to the second
12 day of mediation, and the need to coordinate the schedules of the mediator and the
13 parties, the parties are unable at this time to identify a date certain for the second day of
14 mediation;

15 WHEREAS, the parties believe they should conduct the second day of mediation
16 without having simultaneously to litigate the action so as to preserve the scarce
17 resources of the Court and the time and resources of the parties; and

18 WHEREAS, the parties believe it necessary and appropriate to allow for
19 sufficient time in the Court schedule to allow the parties to exchange and obtain the
20 agreed-upon information, analyze the information prior to the second day of mediation,
21 and schedule and conduct the second day of mediation;

22 NOW, THEREFORE, IN CONSIDERATION OF THE FOREGOING, IT IS
23 HEREBY STIPULATED by and between the parties that:

24 1. The parties will schedule a second day of mediation following the
25 exchanging or obtaining of agreed-upon information, and will report to the Court once
26 the second day of mediation is scheduled;

27
28

1 2. The December 16, 2011 initial case management conference is continued
2 to Friday, February 24, 2012 at 9 a.m. in Courtroom 5, 17th Floor, 450 Golden Gate
3 Avenue, San Francisco, California;

4 3. Dreyer's last day to respond to the initial complaint in this consolidated
5 action as set by the Court's August 31, 2011 order (Dkt. #31) is vacated, and the
6 response date will be addressed and rescheduled, as appropriate, at the continued case
7 management conference;

8 4. The parties agree to cease all litigation activities, including but not limited
9 to serving discovery or addressing any of obligations under Fed. R. Civ. P. 16 or 26(f),
10 until at least after the February 24, 2012 continued initial case management conference;
11 and

12 5. Nothing stated herein shall prevent the parties, or one of them, from
13 seeking an order extending the litigation standstill as appropriate or from seeking to
14 modify further the obligations and deadlines set out in Fed. R. Civ. P. 16 or 26(f).

15 Dated: December 8, 2011 LAW OFFICES OF JANET LINDNER SPIELBERG

16 Janet Lindner Spielberg

17 By: /s/ Janet Lindner Spielberg

18 Janet Lindner Spielberg, Co-Lead Attorney for Plaintiffs

19 Dated: December 8, 2011 MAYER BROWN LLP

20 Carmine R. Zarlenga

21 Dale J. Giali

22 By: /s/ Dale J. Giali

23 Dale J. Giali, Attorneys for Defendant

24 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

25
26 Dated: December ¹³____, 2011

27 Hon. Edward M. Chen, District Judge



1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on December 8, 2011, I caused the foregoing
3 **STIPULATION AND [proposed] ORDER (1) CONTINUING DECEMBER 16,**
4 **2011 INITIAL CASE MANAGEMENT CONFERENCE, (2) VACATING**
5 **RESPONSE DATE TO COMPLAINT, AND (3) CONFIRMING THAT THE**
6 **PARTIES WILL TEMPORARILY FOREGO LITIGATION ACTIVITIES** to be
7 electronically filed with the Clerk of the Court. I understand that the Court will provide
8 electronic notification of and access to such filing to the counsel of record in this matter
9 who are registered on the CM/ECF.
10

11 Dated: December 8, 2011

MAYER BROWN LLP

Dale J. Giali

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14
15 By: /s/ Dale J. Giali

Dale J. Giali

Attorneys for Defendant

DREYER'S GRAND ICE CREAM, INC.
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