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8 Attorneys for Defendant  
 9 ZONEPERFECT NUTRITION COMPANY

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

13 JAMES COLUCCI and KIMBERLY S.  
 14 SETHAVANISH,  
 15 Plaintiffs,  
 16 vs.  
 17 ZONEPERFECT NUTRITION COMPANY,  
 18 Defendant.

19 ) CASE NO. 11-CV-04561 SC  
 20 )  
 21 ) **STIPULATION TO EXTEND THE**  
 22 ) **TIME FOR DEFENDANT**  
 23 ) **ZONEPERFECT NUTRITION**  
 24 ) **COMPANY TO ANSWER, MOVE, OR**  
 25 ) **OTHERWISE RESPOND TO THE**  
 26 ) **COMPLAINT AND RESCHEDULE**  
 27 ) **INITIAL CASE MANAGEMENT**  
 28 ) **CONFERENCE**

1 WHEREAS, Plaintiffs filed a Complaint in the above-captioned case on or about September  
2 14, 2011;

3 WHEREAS, on or about September 14, 2011 the Court entered an order setting the Case  
4 Management Conference for January 3, 2012;

5 WHEREAS, the parties are privately negotiating and exploring mediation in an effort to  
6 resolve the pending dispute;

7 WHEREAS, on September 30, November 2, and November 12, 2011, the parties entered into  
8 stipulations to extend the time for Defendant to answer, move, or otherwise respond to Plaintiffs'  
9 Complaint ("Response Date"), now required on or before January 13, 2012, in order to facilitate  
10 these efforts;

11 WHEREAS, the parties agreed to exchange information on a confidential basis in order to  
12 facilitate these efforts;

13 WHEREAS, on or about November 30, 2011, this case was reassigned to the Honorable  
14 Samuel Conti and on December 1, 2011, and the Court entered an order rescheduling the Case  
15 Management Conference for January 13, 2012;

16 WHEREAS, the parties believe that, in light of the ongoing private discussions and  
17 possibility of mediation, adjourning the Defendant's Response Date until February 10, 2012 and  
18 rescheduling the Case Management Conference for April 6, 2012 would facilitate the parties efforts  
19 to try to resolve this action and would best conserve the resources of the parties and the Court;

20 WHEREAS, the parties anticipate that, in the event the discussions are not successful, a  
21 motion by Defendant is the likely response to Plaintiffs' Complaint; and

22 WHEREAS, the parties agree that it would be most efficient and best conserve the resources  
23 of the parties and the Court to conduct the Case Management Conference in connection with any  
24 hearing on Defendants' motion so they have proposed both to occur on April 6, 2012;

25 IT IS HEREBY STIPULATED AND AGREED by the parties, through their counsel, that the  
26 parties shall adhere to the following schedule for the briefing of Defendants' motion and the Case  
27 Management Conference and related deadlines:

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- 1 (i) Defendant shall have until February 10, 2012 (the "Response Date") to answer, move,
- 2 or otherwise respond to the Complaint;
- 3 (ii) Plaintiff's Opposition to Defendant's Motion shall be filed on or before March 9,
- 4 2012;
- 5 (iii) Defendant's Reply shall be filed on or before March 23, 2012; and
- 6 (iv) The Case Management Conference shall be held on April 6, 2012, with the parties to
- 7 file one Joint Case Management Conference Statement seven days prior to the
- 8 conference. Defendants shall notice the hearing of its responsive motion for the same
- 9 date.

10 It is further stipulated that in the event that the Defendant should agree or be ordered to  
 11 answer, move, or otherwise respond to a complaint in any subsequently filed case based on the same  
 12 allegations as those made by Plaintiffs in the Complaint prior to the Response Date, then the  
 13 Defendant shall respond to the Complaint on that same, earlier date.

14 IT IS SO STIPULATED.

15 Respectfully submitted,  
 16 KIRKLAND & ELLIS LLP

17 DATED: December 16, 2011

18 By: /s/ Elizabeth L. Deeley

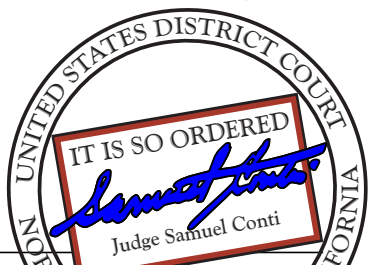
19 Elizabeth L. Deeley  
 20 Attorneys for Defendant  
 21 ZONEPERFECT NUTRITION COMPANY

22 LAW OFFICE OF JANET LINDNER SPIELBERG

23 DATED: December 16, 2011

24 By: /s/ Janet Lindner Spielberg

25 Janet Lindner Spielberg<sup>1</sup>  
 26 Attorneys for Plaintiffs  
 27 JAMES COLUCCI and KIMBERLY S.  
 28 SETHAVANISH



<sup>1</sup> Elizabeth L. Deeley, and the ECF user whose ID and password are being used to file this Stipulation to Extend the Time for Defendant ZonePerfect Nutrition Company to Answer, Move, or Otherwise Respond to the Complaint and Reschedule the Initial Case Management Conference. In compliance with General Order 45, X.B., I hereby attest that the following attorneys have concurred in this filing: Janet Lindner Spielberg, counsel for Plaintiffs, James Colucci and Kimberley S. Sethavanish.

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

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DATED: December \_\_, 2011

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The Honorable Samuel Conti

