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Attorneys for Defendant Dairy Farmers of America, Inc.

(Additional counsel listed below)

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MATTHEW EDWARDS, GEORGIA
BROWNE, TORAH MONTESSORI SCHOOL,
and DANELL TOMASELLA individually and
on behalf of all others similarly situated,
Plaintiffs,

v.

NATIONAL MILK PRODUCERS
FEDERATION, aka COOPERATIVES
WORKING TOGETHER; DAIRY FARMERS
OF AMERICA, INC.; LAND O'LAKES, INC.;
DAIRYLEA COOPERATIVE INC.; and AGRI-
MARK, INC.,

Defendants.

CASE NO. 3:11-CV-04766-JSW

CLASS ACTION

**STIPULATION AND [~~PROPOSED~~] ORDER
TO CONSOLIDATE CASES AND
COMBINE BRIEFS AND AGGREGATE
PAGE LIMITATIONS**

1 Plaintiffs Matthew Edwards, Georgia Browne, Torah Montessori School, Danell
2 Tomasella, Jeffrey Robb, Nels Thogersen, Boys and Girls Club of the East Valley, Mary Anderson,
3 Cody Barrett, Chloe Britzius, Corlea Burnett, Joseph Burwell, Jennifer Clites, Scott Cook, Robert
4 Deloss, Julie Ewald, Robert George, Ian Groves, Tiffany Marie Havener, Amy Her, John Murray,
5 Justin Paczesny, Kory Pentland, Jonathan Rizzo, Harmonie Skipper, Teresa Tobin, Scott Weber, and
6 Alex Weinstein (collectively “Plaintiffs”) and Defendants National Milk Producers Federation, aka
7 Cooperatives Working Together, Dairy Farmers of America, Inc., Land O’Lakes, Inc., Dairylea
8 Cooperative Inc., and Agri-Mark, Inc. (collectively “Defendants”) (together the “Parties”), subject to
9 the Court’s review and approval, hereby stipulate as follows:

10 **STIPULATION**

11 WHEREAS, the actions *Boys and Girls Club of the East Valley et al. v. National Milk*
12 *Producers Federation et al.*, 3:11-cv-05253-JSW (previously determined to be “related” to this
13 action), and *Robb et al. v. National Milk Producers Federation et al.*, 3:11-cv-04791-JSW (along
14 with this action, the “Actions”), are based on the same subject matter as this action and are all
15 pending before the Honorable Jeffrey S. White;

16 WHEREAS, the parties in the Actions have concluded that it is in the best interests of
17 the parties and the putative class members that the Actions be consolidated and proceed as
18 contemplated herein;

19 WHEREAS, the existence of common questions of law and fact in the Actions now
20 pending before this Court, the interests of fair and efficient administration of the Actions, the
21 avoidance of unnecessary duplicative efforts, and the avoidance of inconsistency in outcomes
22 warrant the consolidation of the Actions;

23 WHEREAS, Plaintiffs in *Boys and Girls Club of the East Valley et al. v. National*
24 *Milk Producers Federation et al.* and *Robb et al. v. National Milk Producers Federation et al.* have
25 not yet amended their complaints once as a matter of course pursuant to Fed. R. Civ. P. 15(a)(1); and

26 WHEREAS, Defendants intend to file two joint motions to dismiss the Actions under
27 Fed. R. Civ. P. 12(b)(1) and 12(b)(6) on December 19, 2011, and wish to consolidate the briefing for
28 Defendants’ two joint motions into a single brief totaling no more than 30 pages in length, exclusive

1 of title pages, indices of cases, table of contents, exhibits, signature block, and summary of
2 argument;

3 WHEREAS, this Court's Standing Order limits briefs to 15 pages in length;

4 WHEREAS, good cause exists to allow Defendants to file one consolidated brief
5 since the motions would be repetitive due to the common factual and legal issues of the motions;

6 WHEREAS, the Parties agree to the desirability of Defendants' filing one
7 consolidated opening brief in support of their motions to dismiss under Fed. R. Civ. P. 12(b)(1) and
8 12(b)(6), as well as Plaintiffs' opposition and Defendants' reply briefs ;

9 WHEREAS, Defendant Dairylea Cooperative, Inc. also intends to file a separate
10 motion to dismiss under Fed. R. Civ. P. 12(b)(2) on December 19, 2011; and

11 WHEREAS, the Parties that have appeared, through their respective counsel, have
12 stipulated to the terms provided herein;

13 NOW THEREFORE, the Parties, through their undersigned respective counsel,
14 stipulate, agree, and request as follows:

15 1. The Court finds that *Edwards et al. v. National Milk Producers Federation et*
16 *al.*, 3:11-cv-04766-JSW, *Boys and Girls Club of the East Valley et al. v. National Milk Producers*
17 *Federation et al.*, 3:11-cv-05253-JSW, and *Robb et al. v. National Milk Producers Federation et al.*,
18 3:11-cv-04791-JSW, present substantially similar issues of law and fact and the Actions are hereby
19 consolidated into 3:11-cv-04766-JSW. All future pleadings and other papers shall be filed under
20 3:11-cv-04766-JSW.

21 2. Consolidation of the Actions shall be without prejudice to Plaintiffs' right
22 under Federal Rule of Civil Procedure 15(a)(1) to amend the pleadings in *Boys and Girls Club of the*
23 *East Valley et al. v. National Milk Producers Federation et al.* and *Robb et al. v. National Milk*
24 *Producers Federation et al.* once as a matter of course.

25 3. Defendants shall be allowed to file one single brief in support of their joint
26 motions to dismiss under Fed. R. Civ. P. 12(b)(1) and 12(b)(6) in the consolidated action, totaling no
27 more than 30 pages in length, exclusive of title page, index of cases, table of contents, exhibits,
28 signature block, and summary of argument.

1 4. Plaintiffs shall be allowed to file one single brief in opposition to Defendants’
2 joint motions to dismiss under Fed. R. Civ. P. 12(b)(1) and 12(b)(6), totaling 30 pages in length,
3 exclusive of title page, index of cases, table of contents, exhibits, signature block, and summary of
4 argument.

5 5. Defendants shall be allowed to file one joint reply brief in response to
6 Plaintiffs’ opposition to Defendants’ joint motions to dismiss, totaling 30 pages in length, exclusive
7 of title page, index of cases, table of contents, exhibits, signature block, and summary of argument.

8 6. Defendant Dairylea Cooperative, Inc. shall additionally be allowed to file a
9 separate motion to dismiss under Fed.R.Civ.P. 12(b)(2), with briefing to be governed by the Court’s
10 Standing Order.

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12
13 Dated: December 16, 2011

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21 Dated: December 16, 2011

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Dated: December 16, 2011

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14 *National Milk Producers Federation*

11 **ATTESTATION:** Pursuant to N.D. Cal. General Order 45, Part X-B, the filer attests that
12 concurrence in the filing of this document has been obtained from each signatory thereto.
13

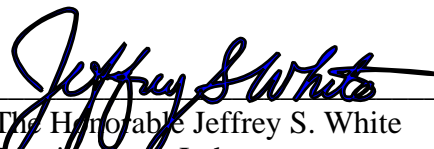
14 _____
15 */s/*
16 Jesse Markham

16 The Court HEREBY GRANTS the parties' stipulation to consolidate these cases and ORDERS that
17 these cases are consolidated for all purposes. However, Defendants' motion to dismiss for failure to
18 state a claim and for lack of personal jurisdiction, and Plaintiffs' opposition thereto, shall be no longer
19 than 25 pages. Defendants shall have until December 22, 2011 to file their motion to dismiss.

20 **ORDER**

21 **IT IS SO ORDERED.**

22 Date Entered: December 19, 2011

23 
24 _____
25 The Honorable Jeffrey S. White
26 District Court Judge