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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

BOARD OF TRUSTEES OF CITY OF HIALEAH
EMPLOYEES' RETIREMENT SYSTEM,
derivatively on behalf of Diamond Foods, Inc.,

No. C 11-05692 WHA

Plaintiff,

**ORDER CONSOLIDATING
ACTIONS AND CASE
MANAGEMENT ORDER**

v.

MICHAEL MENDES, *et al.*,

Defendants.

and

DIAMOND FOODS, INC.

Nominal Defendant.

_____ /

DAVE LUCIA,

No. C 11-06417 WHA

Plaintiff,

v.

LAURENCE M. BAER, *et al.*,

Defendants.

and

DIAMOND FOODS, INC.

Nominal Defendant.

_____ /

1 The parties have stipulated that the following derivative actions should be consolidated:
2 C 11-05692 *Board of Trustees of City of Hialeah Employees' Retirement System v.*
3 *Mendes, et al.*

4 C 11-06417 *Lucia v. Baer, et al.*

5 The Court finds that consolidation is appropriate. The above-stated cases are consolidated for all
6 purposes, including, but not limited to, discovery, pretrial proceedings, and trial proceedings
7 pursuant to Federal Rule of Civil Procedure 42.

8 The consolidated cases shall be identified as *In re Diamond Foods, Inc. Derivative*
9 *Litigation*, Case No. CV 11-05692 WHA, and the files of this action shall be maintained in one
10 file under Master File No. 11-05692. Every pleading filed in the consolidated action shall bear
11 the following caption:

12
13 _____)
14 In re Diamond Foods, Inc., Derivative Litigation) Case No. 11-CV-05692 (WHA)
15 _____)
16 This Document Relates to:)
17 _____)

18 When a pleading is intended to be applicable to some, but not all, of such actions, the docket
19 number for each individual action to which the document is intended to be applicable, shall
20 appear immediately after the words: "This Document Relates to"

21
22 Any action now pending or hereafter filed in this district that arises out of the same facts
23 and claims as alleged in these related actions shall be consolidated for all purposes as the Court
24 becomes aware of them. The parties shall notify the Court of any other action pending or filed
25 outside this district that may be related to the subject matter of these consolidated actions, if and
26 when they become aware of such actions.

28

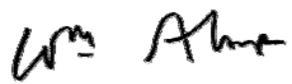
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Plaintiffs shall file a consolidated complaint **BY MARCH 1, 2012**. The consolidated complaint shall be the operative complaint and supersede all complaints in any of the actions consolidated herein. Defendants shall respond to the consolidated complaint within 45 days of receiving service. Defendants indicated at the case management conference their intention to file a motion to dismiss on several grounds. Defendants shall file one motion to dismiss, noticed on the normal 35-day track, in accordance with the above-stated schedule.

Lead plaintiff and lead counsel will not be appointed at this time, as this would be premature.

IT IS SO ORDERED.

Dated: February 16, 2012.



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE