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FILED
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**UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA**

RICHARD W. WIEKING
 CLERK, U.S. DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

17 KEVIN ANDERSON, on behalf of himself and all
 18 others similarly situated,

19 Plaintiffs,

20 vs.

21 JAMBA JUICE COMPANY and INVENTURE
 22 FOODS, INC., formerly known as The Inventure
 23 Group, Inc.,

24 Defendants.

Case No. C 12-01213 JST

**JOINT STIPULATION AND [PROPOSED]
 ORDER REGARDING:**
 (1) DISMISSAL OF PLAINTIFF KEVIN
 ANDERSON'S CASE;
 (2) PENDING MOTION FOR
 CONSOLIDATION; AND
 (3) SETTING OF CASE MANAGEMENT
 CONFERENCE IN RELATED CASE

25 ALETA LILLY and DAVID COX, on behalf of
 26 themselves and all others similarly situated,

27 Plaintiffs,

28 vs.

JAMBA JUICE COMPANY and INVENTURE
 FOODS, INC., formerly known as The Inventure
 Group, Inc.,

Defendants.

Case No. 13-cv-2998 JST

JOINT STIPULATION AND [PROPOSED] ORDER
 Case No. 2:12-cv-01213 (JST)

1 WHEREAS, Plaintiff Kevin Anderson filed his original complaint against Jamba Juice Company
2 on March 12, 2012 in the case entitled, *Anderson v. Jamba Juice, Co.*, Case No. C 12-01213 JST
3 (“*Anderson*”). Docket No. 1.

4 WHEREAS, the Court ordered Plaintiff Kevin Anderson to file his Motion for Class
5 Certification by July 15, 2013 and ordered Defendants to file their opposition by September 20, 2013.
6 Docket No. 78.

7
8 WHEREAS, Plaintiffs Aleta Lilly and David Cox filed a complaint against Defendants on June
9 28, 2013 entitled *Lilly v. Jamba Juice Co. et al*, No. 13-cv-2998 JST (“*Lilly*”). Docket No. 1.

10 WHEREAS, the Court ordered the *Anderson* and *Lilly* cases related on July 22, 2013. Docket
11 No. 87.

12
13 WHEREAS, on July 15, 2013, Plaintiffs’ motion for class certification was filed in the *Anderson*
14 action proposing Plaintiffs Lilly and Cox as the Class Representatives. Docket No. 83.

15 WHEREAS, on July 15, 2013, Plaintiffs Lilly and Cox also moved for an order consolidating the
16 *Anderson* and *Lilly* cases. Docket No. 80.

17
18 WHEREAS, on July 29, 2013, Defendants filed their opposition to the motion to consolidate.
19 Docket 89.

20 WHEREAS, the hearing for Plaintiffs’ Motion for an Order Consolidating Cases is currently
21 scheduled for September 12, 2013.

22
23 WHEREAS, since July 31, 2013, Plaintiffs’ Counsel has been unable to reach Mr. Anderson, as
24 set forth in the accompanying Declaration of Rosemary M. Rivas (“*Rivas. Decl.*”), at ¶ 2.

25 WHEREAS, Plaintiffs’ Counsel has not been able to provide supplemental responses to
26 Defendants’ discovery requests nor confirm Plaintiff Kevin Anderson’s attendance for the Defendants’
27 noticed deposition, which was scheduled for August 23, 2013. *See Rivas Decl.*, at ¶ 3.
28

1 WHEREAS, THE PARTIES HEREBY STIPULATE AND AGREE as follows:

- 2 1) That, pursuant to Federal Rule of Civil Procedure 41(b), the Court enter an order
3 dismissing the *Anderson* action, with each party bearing their own costs. The dismissal is
4 without prejudice as to Plaintiff Anderson's ability to participate in any proposed class action as
5 a class member, or the ability of any other proposed class member to bring a class action.
6
7 2) That the Court enter an order providing that the motion to consolidate the *Anderson* and
8 the *Lilly* matters scheduled for September 12, 2013, is moot and should be vacated.
9
10 3) That the Court enter an order providing that the motion for class certification currently set
11 for December 5, 2013 in the *Anderson* action is moot and should be vacated.
12
13 4) That the Court enter an order providing that the case management conference scheduled
14 in *Anderson* for October 23, 2013 is moot.
15
16 5) That the Court enter an order providing that the case management conference currently
17 set for the *Anderson* case for October 23, 2013 be vacated and reset at the same date and time to
18 discuss case management of the *Lilly* case, including among other things, the re-filing of the
19 motion for class certification in *Lilly* and a briefing schedule for the motion.

20 DATED: September 3, 2013

FINKELSTEIN THOMPSON LLP

By: /s/ Rosemary M. Rivas

Rosemary M. Rivas

Counsel for Plaintiff Kevin Anderson

OSBORN MALEDON

24 DATED: September 3, 2013

By: /s/ Maureen Beyers¹

Maureen Beyers

26
27 _____
28 ¹ Attestation under General Order 45, I, Rosemary M. Rivas, attest that the concurrence of the filing of
this document has been obtained from Maureen Beyers, which shall serve in lieu of her signature.

*Counsel for Defendants Jamba Juice Company and
Inventure Foods, Inc*

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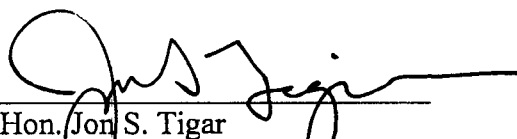
~~PROPOSED~~ ORDER

1
2 Based on the foregoing stipulation and good cause being shown, the Court hereby GRANTS the
3 parties' Stipulation Regarding: (1) Dismissal of Plaintiff Kevin Anderson's individual claims; (2)
4 Pending motion for consolidation; and (3) Setting of case management conference in related case. The
5 Court hereby orders as follows:

- 6 1) The action entitled, *Anderson v. Jamba Juice, Co.*, Case No. C 12-01213 JST is hereby
7 dismissed pursuant to Federal Rule of Civil Procedure 41(b), with each party bearing their own
8 costs. The dismissal is without prejudice as to Plaintiff Anderson's ability to participate in any
9 proposed class action as a class member, or the ability of any other proposed class member to
10 bring or participate in a class action;
11
12 2) The motion to consolidate scheduled for September 12, 2013, is moot and the hearing
13 thereon is vacated;
14
15 3) The motion for class certification currently scheduled for December 5, 2013 in the
16 *Anderson* action is moot and the hearing thereon is vacated; and
17
18 4) The case management conference currently set for the *Anderson* matter on October 23,
19 2013 is vacated, and reset at the same date and time to discuss case management of the *Lilly*
20 case, including among other things, the re-filing of the motion for class certification in *Lilly* and
21 a briefing schedule for the motion.
22

23 **IT IS SO ORDERED.**

24 Date: 9/3/13


25 Hon. Jon S. Tigar
26 United States District Court Judge
27
28