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5 Attorneys for Defendant  
Driscoll Strawberry Associates. Inc.  
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8 IN THE UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA

10 DG BERRY, INC, a California Corporation )

11 Plaintiff, )

12 v. )

13 DRISCOLL STRAWBERRY ASSOCIATES, )  
14 INC., a California Corporation )

15 Defendant. )  
16 )  
17 )

Case No. CV13- 1236 EMC

**STIPULATION AND ORDER TO RE-  
SET STATUS CONFERENCE**

**Date: August 22, 2013**

**Time: 9:00 a.m.**

**Judge: Hon. Edward Chen**

18 Plaintiff DG Berry, Inc. ("Plaintiff") and Defendant Driscoll Strawberry Associates, Inc.  
19 ("Defendant"), by and through their respective counsel, hereby stipulate as follows:

20 **RECITALS**

21 1. In their Joint Case Management Conference Statement, the parties notified the  
22 Court that they had set mediation of this case with Retired Judge Richard Silver through JAMS,,  
23 and have previously twice applied for and received continuations of the Case Management  
24 Conference due to the original mediation session which occurred on July 9, 2013, and a  
25 continued mediation session which occurred on August 9, 2013..  
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1           2.       By its Order dated July 18, 2013, the Court re-set the Case Management  
2 Conference to August 22, 2013 at 9:00.a.m., which was a date after the second mediation  
3 session was to occur.

4           3.       However, although the parties met a second time in mediation with Ret. Judge  
5 Silver on August 9, 2013 in Monterey, California the case did not settle on that date. After the  
6 parties exchanged offers on that date that did not result in a settlement, Judge Silver proposed a  
7 confidential mediator's recommendation for settlement that he e-mailed to the parties on  
8 Monday, August 12, 2013.

9           4.       Because of the travel schedules of the decision-makers for Defendant, the parties  
10 agreed that they would submit their response to Judge Silver's recommendation for settlement  
11 by Monday, August 26, 2013. If either or both parties reject Judge Silver's recommendation for  
12 settlement, it will have no effect and the litigation will proceed. If both parties accept Judge  
13 Silver's recommendation for settlement, then they will proceed to negotiate the language of a  
14 settlement agreement, including but not limited to a provision concerning the confidentiality of  
15 the settlement agreement.

16           NOW THEREFORE, in light of the above-recited facts, the parties respectfully request  
17 that the Case Management Conference be reset to a date after the parties' due date of August 26,  
18 2013 to respond to the mediator's recommendation for settlement. If the foregoing is agreeable  
19 to the Court, counsel list the dates during September which they are not available below:

20           Defendant's counsel, James W. Sullivan plans to be out of the country from September 7  
21 through 21, 2013 if a family medical condition does not prevent or delay that trip.

22           Plaintiff's counsel, Effie Anastassiou is not available on the following dates: September  
23 6, 11, 13, 18, 20, 23-25, 2013.

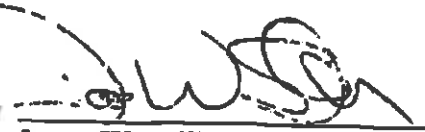
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25 IT IS SO STIPULATED

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Effie Anastassiou, Esq.  
Anastassiou & Associates  
Attorneys for Plaintiff  
DG Berry, Inc.

Dated: Aug. 15, 2013



James W. Sullivan, Esq.  
L&G, LLP  
Attorneys for Defendant Driscoll  
Strawberry Associates, Inc.

Dated: Aug. 15, 2013

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**CASE MANAGEMENT ORDER**

The above stipulation is approved. The Case Management Conference, currently set for August 22, 2013 is hereby continued to:

Date: 9/5/13

Time: 9:00

Courtroom: -5

IT IS SO ORDERED

Dated: 8/15/13

