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 13 Trader Joe's Company

14 **UNITED STATES DISTRICT COURT**
 15 **NORTHERN DISTRICT OF CALIFORNIA**
 16 **SAN FRANCISCO DIVISION**

17 AMY GITSON *et al.*,
 18
 19 Plaintiffs,
 20
 21 v.
 22 TRADER JOE'S COMPANY,
 23
 24 Defendant.

Case No. 13-CV-1333 VC

**JOINT STATUS UPDATE
 REGARDING SCHEDULING OF
 MANDATORY SETTLEMENT
 CONFERENCE AND
 [PROPOSED] ORDER**

Judge: Hon. Joseph C. Spero

TAC Filed: April 3, 2014

Trial Date: Not Set

JOINT STATUS UPDATE RE:
 SETTLEMENT CONFERENCE;
 13-CV-1333 VC

1 In accordance with this Court’s November 17, 2014 order, which is attached as Exhibit 1
2 to this Joint Status Update, Plaintiffs Amy Gitson and Deborah Ross and Defendant Trader Joe’s
3 Company (collectively, the “Parties”), respectfully submit this Joint Status Update regarding the
4 scheduling of the mandatory settlement conference in this matter. As explained below, given
5 Judge Chhabria’s extension of the stay until at least the next case management conference
6 (currently set for June 23, 2015), the Parties propose to submit a further joint status report to
7 Judge Spero within ten days of the next case management conference.

8 This matter was scheduled for a settlement conference on May 5, 2014. However, on
9 April 28, 2014, the Parties submitted a joint stipulation requesting that this Court vacate the
10 settlement conference. At the time, Trader Joe’s had two motions pending—a motion to dismiss
11 Plaintiffs’ Third Amended Complaint (Dkt. No. 82) and a motion to certify for interlocutory
12 appeal. (Dkt. No. 74.) A central issue raised by both motions was whether Plaintiffs have
13 standing to assert claims as to approximately 177 products they did not purchase. The Parties
14 requested a continuance of the settlement conference because they did not believe they were in
15 the position to engage in settlement discussions until this issue was resolved. On April 28, 2014,
16 this Court vacated the May 5, 2014 settlement conference and continued it until a date
17 approximately 60 days after the entry of an order on Trader Joe’s motion to dismiss, or 60 days
18 after entry of an order on Trader Joe’s motion to certify for interlocutory appeal.

19 On August 8, 2014, Judge Chhabria entered a single order on both motions. (Dkt. No.
20 101.) Judge Chhabria denied the motion for interlocutory appeal. (*Id.* at 2-3.) As to Trader Joe’s
21 motion to dismiss, he stayed the entire case on primary jurisdiction grounds (*id.* at 3-4), and
22 denied the remainder of Trader Joe’s motion to dismiss without prejudice to re-filing once the
23 stay is lifted (*id.* at 4). Judge Chhabria also set a case management conference for November 4,
24 2014,¹ at which he would revisit the propriety of maintaining the stay. (*Id.*) The November 2014
25 case management conference was subsequently rescheduled to March 24, 2015. (Dkt. No. 106.)
26 Accordingly, on November 17, 2014, this Court granted the Parties’ request to further continue

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28 ¹ Judge Chhabria subsequently continued the case management conference scheduled for
November 4, 2014, to November 13, 2014.

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~~PROPOSED~~ ORDER

Having reviewed the Parties' joint status update regarding the scheduling of the mandatory settlement conference in this matter, it is hereby ordered that within 10 days of the next case management conference, which is currently scheduled for June 23, 2015 the Parties will jointly submit a status update to this Court wherein they will report on (1) the status of the stay; (2) if the stay is lifted, whether Trader Joe's intends to re-file its motion to dismiss the Third Amended Complaint and, if so, by which date the Parties anticipate the motion will be resolved; and (3) if the stay is lifted and Trader Joe's refiles its motion to dismiss the Third Amended Complaint, the date by which the Parties propose to jointly contact Judge Spero's chambers to select a settlement conference date.

IT IS SO ORDERED.

Dated: 04/03/15 _____

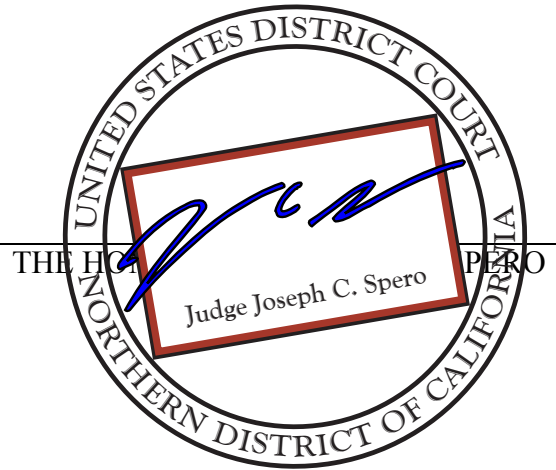


EXHIBIT 1

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Case No. 13-CV-1333 VC

**JOINT STATUS UPDATE RE:
 SCHEDULING OF MANDATORY
 SETTLEMENT CONFERENCE AND
 [PROPOSED] ORDER**

Judge: Hon. Joseph C. Spero

TAC Filed: April 3, 2014

Trial Date: March 23, 2015

1 In accordance with this Court's order entered on September 3, 2014, and attached as
2 Exhibit 1, Plaintiffs Amy Gitson and Deborah Ross and Defendant Trader Joe's Company
3 (collectively, the "Parties"), respectfully submit this joint status update regarding the scheduling
4 of the mandatory settlement conference in this matter. On November 13, 2014, Judge Chhabria
5 continued the current stay of this lawsuit *at least* until the next case management conference
6 scheduled for March 24, 2015. Accordingly, the Parties believe they are not in the position to
7 engage in meaningful settlement discussions and propose that they provide a further status update
8 on the scheduling of the mandatory settlement conference after the March 24, 2015 case
9 management conference.

10 This matter was previously scheduled for a settlement conference on May 5, 2014. On
11 April 28, 2014, the Parties submitted a joint stipulation requesting that this Court vacate that
12 settlement conference. At that time, Trader Joe's had two motions pending—a motion to dismiss
13 Plaintiffs' Third Amended Complaint (Dkt. No. 82) and a motion to certify for interlocutory
14 appeal (Dkt. No. 74). A central issue raised by both motions was whether Plaintiffs have standing
15 to assert claims as to approximately 177 products they did not purchase. The Parties requested a
16 continuance of the settlement conference, because they did not believe they were in the position
17 to engage in meaningful settlement discussions until this issue was resolved. On April 28, 2014,
18 this Court vacated the May 5, 2014 settlement conference and continued it until a date
19 approximately 60 days after the entry of an order on Trader Joe's motion to dismiss, or 60 days
20 after entry of an order on Trader Joe's motion to certify for interlocutory appeal, whichever came
21 later.

22 On August 8, 2014, Judge Chhabria entered a single order on both motions. (Dkt. No.
23 101.) Judge Chhabria denied the motion for interlocutory appeal. (*Id.* at 2-3.) As to Trader Joe's
24 motion to dismiss, he stayed the entire case on primary jurisdiction grounds (*id.* at 3-4), and
25 denied the remainder of Trader Joe's motion to dismiss without prejudice to re-filing once the
26 stay is lifted (*id.* at 4). Judge Chhabria also set a case management conference for November 4,
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1 Dated: November 14, 2014

CLIFFORD LAW OFFICES, P.C.

2 By: s/ Colin H. Dunn

3 Colin H. Dunn

4 Attorneys for Plaintiffs

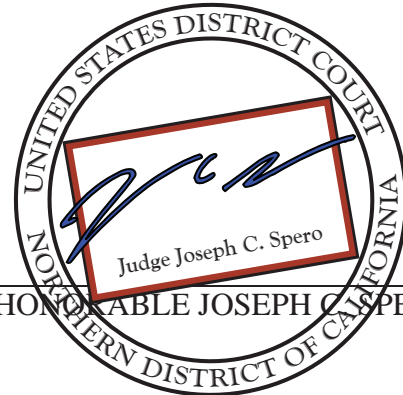
Amy Gitson and Deborah Ross

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6 **~~PROPOSED~~ ORDER**

7 Having reviewed the Parties' joint status update regarding the scheduling of the
8 mandatory settlement conference in this matter, it is hereby ordered that within 10 days of the
9 next case management conference, which is currently scheduled for March 24, 2015, the Parties
10 will jointly submit a status update to this Court wherein they will report on (1) the status of the
11 stay; (2) if the stay is lifted, whether Trader Joe's intends to re-file its motion to dismiss the third
12 amended complaint and, if so, by which date the Parties anticipate the motion will be resolved;
13 and (3) if the stay is lifted and Trader Joe's refiles its motion to dismiss the Third Amended
14 Complaint, the date by which the Parties will jointly contact Judge Spero's chambers to select a
15 settlement conference date.

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17 **IT IS SO ORDERED.**

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19 Dated: 11/17/14



20 THE HONORABLE JOSEPH C. SPERO

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JOINT STATUS UPDATE RE:
SCHEDULING OF SETTLEMENT
CONFERENCE;
13-CV-1333 VC