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Attorneys for Defendant Late July Snacks LLC

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

MARY SWEARINGEN and ROBERT FIGY,
individually and on behalf of all others similarly
situated,

Plaintiffs,

v.

LATE JULY SNACKS LLC,

Defendant.

Case No. 13-cv-4324-EMC

**STIPULATION AND [PROPOSED]
ORDER CONTINUING CASE
MANAGEMENT CONFERENCE AND
SETTING BRIEFING SCHEDULE ON
MOTION TO DISMISS**

Judge: Hon. Edward M. Chen
Current CMC Date: November 18, 2017

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Subject to the Court’s approval, the parties stipulate as follows:

WHEREAS, on October 31, 2016, Late July filed a motion to dismiss the Second Amended complaint in this action, which set February 16, 2017 as the date for hearing the motion;

WHEREAS, on October 31, 2016, Healthy Beverage, LLC filed a motion to dismiss the Second Amended complaint, also setting a hearing date of February 16, 2017, in the action captioned *Swearingen et al v. Healthy Beverage, LLC*, 13-cv-04385, which is also pending before this Court, asserts claims relating to the use of “evaporated cane juice,” and is currently on the same schedule as this action;

WHEREAS, a CMC is currently scheduled for November 18, 2016 in both this matter and the *Healthy Beverage* matter; and

WHEREAS, the parties to this action and the *Healthy Beverage* action have all conferred and agree that conducting the CMCs prior to the completion of briefing and a hearing on the motions to dismiss is unlikely to advance these matters or to be an efficient use of the Court’s or the parties’ resources;

The parties stipulate and respectfully request that the Court enter an order as follows:

1. Adjourning the November 18, 2016 CMC until February 16, 2017, or a date thereafter that is convenient for the Court;
2. Setting a deadline of December 16, 2016 for Plaintiffs to file their opposition to the motion to dismiss; and
3. Setting a deadline of January 16, 2017 for Late July to file its reply in response to Plaintiffs’ opposition to the motion to dismiss.

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Dated: October 31, 2016

By: /s/ Joshua L. Solomon
Joshua L. Solomon
Attorney for Defendant
LATE JULY SNACKS LLC

Dated: October 31, 2016

By: /s/ Ben F. Pierce Gore
Ben F. Pierce Gore
Attorney for Plaintiffs

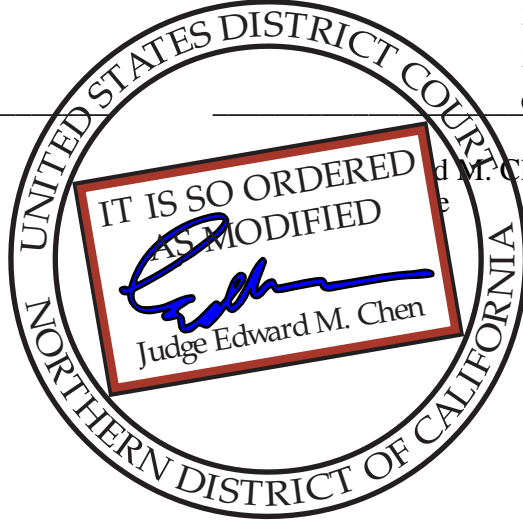
~~PROPOSED~~ ORDER

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PURSUANT TO STIPULATION, IT IS SO ORDERED.

Further CMC reset from
11/18/16 to 2/16/17 at
1:30 p.m. Updated joint
CMC statement due 2/9/17.

Dated: 11/1/16



Edward M. Chen