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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MARY SWEARINGEN, et al.,
Plaintiffs,
v.
LATE JULY SNACKS LLC,
Defendant.

Case No. 13-cv-04324-EMC

**ORDER REGARDING FOOD AND
DRUG ADMINISTRATION ACTION
AND REFERRAL TO COMMISIONER**

United States District Court
For the Northern District of California

This case has been stayed since May 29, 2014, pending the FDA’s decision after it reopened the comment period regarding whether “evaporated cane juice” (ECJ) is a common or usual name for sugar. *See* Docket No. 69. Pursuant to 21 C.F.R. section 10.25(c), this Court previously requested that the Commissioner inform the Court whether a final determination regarding ECJ “is feasible within agency priorities and resources.” Docket No. 78 (quoting 21 C.F.R. § 10.25(c) (providing that the “Commissioner will institute a proceeding to determine whether to . . . tak[e] any [] form of administrative action” while this court “holds in abeyance” its proceedings if the “Commissioner concludes that an administrative determination is feasible within agency priorities and resources”)). In response, the FDA stated that it “anticipates that a final guidance will issue before the end of 2016.” Docket No. 80.

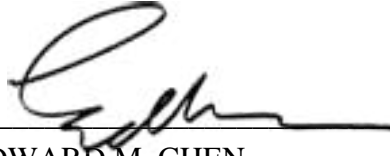
The Court again requests that the Commissioner inform the Court whether a final determination regarding ECJ “is feasible within agency priorities and resources.” 21 C.F.R. § 10.25(c). In particular, the Court would like to know if the FDA is likely to issue any further guidance regarding ECJ within the next 180 days. Plaintiffs are directed to serve a copy of this Order on the Commissioner of the FDA within fourteen (14) days of the date of this order.

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Plaintiffs are also directed to file a proof of service after serving the Commissioner.

IT IS SO ORDERED.

Dated: March 11, 2016



EDWARD M. CHEN
United States District Judge