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**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 LIFTING STAY, SETTING
SCHEDULE, AND ADJOURNING CMC**

Judge: Hon. Edward M. Chen
Current CMC Date: June 23, 2016

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

WHEREAS, on May 26, 2016, the FDA issued a guidance titled, “Ingredients Declared as Evaporated Cane Juice: Guidance for Industry”;

WHEREAS, The parties agree that the stay currently in place, based on the primary jurisdiction doctrine, is no longer necessary in light of the May 26 Guidance; and

WHEREAS, the parties have conferred and agreed upon the appropriate next steps and schedule for resumption of this action;

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

1. The stay previously imposed in this action is lifted;
2. Plaintiffs are granted leave to file, and shall file by August 31, 2016, a Second Amended Complaint;

3. Leave to file the Second Amended Complaint is without prejudice to any defenses Late July may have to the Second Amended Complaint, including but not limited to defenses under Fed. R. Civ. P. 12(b)(1) and 12(b)(6);

4. To accommodate defense counsel’s trial schedule in September, Late July shall respond to the Second Amended Complaint by answer or motion by October 31, 2016; and

5. The CMC currently scheduled for July 28, 2016 is ~~adjourned~~. reset for 11/17/16 at 10:30 a.m. An updated joint CMC statement shall be filed by 11/10/16.

Dated: July 21, 2016
By: /s/ Joshua L. Solomon
Joshua L. Solomon
Attorney for Defendant
LATE JULY SNACKS LLC

Dated: July 21, 2016
By: /s/ David Shelton
David Shelton
Attorney for Plaintiffs

~~[PROPOSED]~~ ORDER

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PURSUANT TO STIPULATION, IT IS SO ORDERED. (as modified above)

Dated: 7/22/16

Honorable Edward M. Chen
U.S. District Judge

