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8 ACAI

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10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION
13

14 MARY SWEARINGEN and ROBERT FIGY,
15 individually and on behalf of others similarly
16 situated,

17 Plaintiffs,

18 v.

19 AMAZON PRESERVATION PARTNERS, INC.
d/b/a ZOLA ACAI,

20 Defendant.
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Case No. CV13-4402-WHO

**STIPULATION AND ORDER
CONTINUING CASE
MANAGEMENT CONFERENCE**

Judge: Hon. William H. Orrick
Action Filed: September 23, 2013

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Pursuant to Civil Local Rule 6-1(b), plaintiffs Mary Swearingen and Robert Figy, on behalf of themselves and all others similarly situated, and defendant Amazon Preservation Partners, Inc. dba Zola Acai (“Zola”) through their undersigned counsel, hereby stipulate as follows:

WHEREAS, this action was filed in this Court on September 23, 2013;

WHEREAS, Zola filed a Motion to Dismiss the Complaint on December 6, 2013, and noticed the hearing for February 19, 2014;

WHEREAS, on December 12, 2013, the Court approved the parties’ stipulation extending the briefing schedule so that Plaintiffs’ Opposition to the Motion to Dismiss is due January 17, 2014 and Defendant’s Reply in Support of the Motion to Dismiss is due February 5, 2014;

WHEREAS, the Court previously scheduled a Case Management Conference for January 14, 2014 at 2:00 p.m.;

WHEREAS, the parties believe that this matter is not ready for an initial Case Management Conference given that the briefing on the Motion to Dismiss will not be completed by January 14, 2014;

WHEREAS, for the convenience of the parties and this Court, the parties respectfully request that the Case Management Conference be continued to February 19, 2014, the date of the hearing on Defendant’s motion, or to a later date after the Court has ruled on Defendant’s motion because, until the pleadings are settled, it is premature to set dates for further proceedings;

IT IS HEREBY STIPULATED AND AGREED by the parties, through their counsel and subject to court approval, that pursuant to Local Rule 6-1(b), the Case Management Conference shall be continued to February 19, 2014, or a later date to be determined by the Court.

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Dated: December 23, 2013

WILLIAM L. STERN
CLAUDIA M. VETESI
LISA A. WONGCHENKO
MORRISON & FOERSTER LLP

By: /s/ William L. Stern
WILLIAM L. STERN

Attorneys for Defendant AMAZON
PRESERVATION PARTNERS, INC. d/b/a
ZOLA ACAI

Dated: December 23, 2013

BEN F. PIERCE GORE
PRATT & ASSOCIATES
1871 THE ALAMEDA, SUITE 425
SAN JOSE, CA 95126

By: /s/ Ben F. Pierce Gore
BEN F. PIERCE GORE

Attorneys for Plaintiffs MARY
SWEARINGEN and ROBERT FIGY

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ECF ATTESTATION

I, William L. Stern, am the ECF User whose ID and password are being used to file the following: **STIPULATION CONTINUING CASE MANAGEMENT CONFERENCE**. In compliance with Civil Local Rule 5-1(i), I hereby attest that Ben F. Pierce Gore has concurred in this filing.

Dated: December 23, 2013

WILLIAM L. STERN
CLAUDIA M. VETESI
LISA A. WONGCHENKO
MORRISON & FOERSTER LLP

By: /s/ William L. Stern
WILLIAM L. STERN

ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED. The Case Management Conference will be rescheduled to February 19, 2014, following argument on the Motion to Dismiss.

DATED: December 24, 2013



WILLIAM H. ORRICK
United States District Judge