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United States District Court
Northern District of California

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MARY SWEARINGEN, et al.,
Plaintiffs,

v.

AMAZON PRESERVATION PARTNERS,
INC.,

Defendant.

Case No. [13-cv-04402-WHO](#)

ORDER EXTENDING STAY AND CONTINUING CASE MANAGEMENT CONFERENCE

Re: Dkt. No. 61

On August 11, 2014, the Court entered a stay of this case in light of the FDA’s decision in March, 2014 to reopen the comment period for draft guidance on the use of the term “evaporated cane juice,” which is central to the claims in this case. Dkt. No. 52. On December 24, 2014, the FDA published a notice indicating that it is evaluating the submitted comments and considering appropriate actions. Dkt. No. 54, p.7. On July 8, 2015, the FDA indicated in a letter to Judge Chen that it “anticipates that a final guidance will issue before the end of 2016.” See Dkt. No. 61, p.9 of 21 (quoting letter from Leslie Kux, Associate Commissioner of Policy, Food and Drug Administration, to Judge Chen).

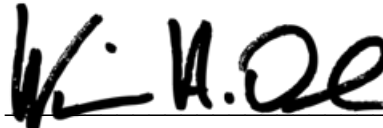
The plaintiffs initially agreed with defendants that a stay was appropriate, but now are impatient (for good reason) with the time the FDA is taking on this issue. They are wrong, however, to suggest that there is a trend in this District to lift similar stays--the overwhelming majority of cases remain stayed, as defendant points out. Dkt. No. 61, p. 14 of 21. And impatience is not a reason to lift a stay when primary jurisdiction applies. The FDA reiterated in its letter to Judge Chen that it is working on final guidance. The stay is extended until further order of this Court. I will CONTINUE the Case Management Conference set for January 12, 2016 to **July 19, 2016**. The Joint Statement is due on **July 12, 2016**. The parties are directed to inform

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the Court within 20 days of any FDA action on this issue.

IT IS SO ORDERED.

Dated: January 11, 2015

A handwritten signature in black ink, appearing to read 'W. H. Orrick', written over a horizontal line.

WILLIAM H. ORRICK
United States District Judge