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28UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

GREENFIELD FRESH, INC.,

Plaintiff,

v.

BERTI PRODUCE-OAKLAND, INC., et al.,

Defendants.

Case No. [14-cv-01096-JSC](#)**ORDER REGARDING CONSENT FOR
STIPULATION OF DISMISSAL**

The Court is in receipt of a stipulation of dismissal with prejudice of individual defendants Mah and Chow. The stipulation seeks the Court's signature. As a Magistrate Judge, the Court cannot issue dispositive orders, such as stipulations of dismissal, without the consent of all parties. 28 U.S.C. § 636(c). Plaintiff and Defendant Mah have consented to the jurisdiction of a magistrate judge. (Dkt. Nos. 10, 11.) Defendant Chow has not made an appearance in the case and thus has not consented. Accordingly, defendant Chow must sign a form consenting to the jurisdiction of a magistrate judge. For the parties' convenience, the consent/declination form is attached.

Defendant Berti Produce-Oakland, Inc. has not made an appearance, settled, nor filed a consent and its default has been entered. As it is a corporation, it can only appear in this action through an attorney. *See D-Beam Ltd. Partnership v. Roller Derby Skates, Inc.*, 366 F.3d 972, 973 (9th Cir. 2004). The Court can sever Berti-Produce Oakland, Inc. into a separate action so its consent is not required for issuance of the dismissal of the other parties. If Berti-Produce Oakland, Inc. continues not to appear and a default judgment is entered, the Court can issue the default judgment as a Report and Recommendation to a district court judge since presumably it will not have consented to magistrate judge jurisdiction.

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Accordingly, on or before Tuesday, September 23, 2014, Plaintiff and Defendant Mah—the parties with appearances in this action—shall advise the Court whether they agree to sever the claims against Berti-Produce Oakland, Inc. into a separate action to remain with this magistrate judge. Upon the severance and the filing (if any) of Chow’s consent to magistrate judge jurisdiction, the Court will sign the submitted stipulation of dismissal.

IT IS SO ORDERED.

Dated: September 18, 2014



JACQUELINE SCOTT CORLEY
United States Magistrate Judge