

United States District Court  
For the Northern District of California

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

FRANCISCA MORALEZ,	)	Case No. 3:14-cv-5022 SC
	)	
Plaintiff,	)	ORDER ON CONTINUANCE OF
	)	<u>MOTION TO DISMISS</u>
v.	)	
	)	
WHOLE FOODS MARKET CALIFORNIA,	)	
INC.,	)	
	)	
Defendant.	)	

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This Order Relates To:

MOTION FOR CONTINUANCE RELATING TO  
MOTION TO DISMISS SECOND AMENDED  
COMPLAINT FOR DAMAGES

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The Court now turns to a Request for Continuance of Motion to Dismiss, filed by Plaintiff on August 1, 2015, ECF No. 30. A timely objection thereto was filed on August 3, 2015, ECF No 31.

The Court, having been otherwise engaged, failed to notify Plaintiff of its displeasure prior to the August 4, 2015 date on which Plaintiff's motion was originally -- and technically is still -- due. Therefore, the Court planned to partially accommodate Plaintiff's request in a manner meant to recognize that the Defendant should not be forced to suffer further delay. However,

1 since that time, Counsel have filed a Reply, Response, and  
2 Supplemental Reply, thus obviating the need for an expedited  
3 briefing schedule. ECF Nos. 32, 33, 34.

4 Counsel for Plaintiff is reminded that Counsel has committed  
5 to the Court and may need to decline other cases -- criminal or  
6 civil -- based on this previous commitment. As matters stand, the  
7 Defense filed a one-page Reply, dated August 7, 2015, which has  
8 become a purely extra expense to Defendant caused by Plaintiff's  
9 Counsel's failure to comply with the rules. Counsel for Plaintiff  
10 is therefore ORDERED to SHOW CAUSE, in writing, within 7 days of  
11 the date of this order why it should not be sanctioned and/or  
12 required to pay the attorneys' fees connected directly with  
13 Defendant's extra expense. However, dismissal of the case with  
14 prejudice seems to unfairly prejudice the Plaintiff (vice  
15 Plaintiff's Counsel). Accordingly, requests by Defendant to  
16 dismiss or (if so construed) strike the opposition or underlying  
17 SAC as time-barred are denied. Failure to meet future deadlines or  
18 future violations of the Civil Local Rules or Federal Rules of  
19 Civil Procedure without prior leave of the Court will result in  
20 further action from the Court.

21 The Court GRANTS IN PART, DENIES IN PART the motion for  
22 continuance, and OVERRULES the objection. In so doing, the Court  
23 hereby retroactively grants permission to Plaintiff to file not  
24 later than August 9, 2015, the date on which an opposition was  
25 entered. Defendant appears to have had an opportunity to respond  
26 to the Plaintiff's arguments. But if in light of this order  
27 Defendant desires to revise and refile its Reply, it is GRANTED

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1 LEAVE to do so within 3 days of the date of this order. This  
2 permission should not be taken as a requirement.

3 Upon initial review, the contents of this motion are likely  
4 appropriate for resolution without oral argument pursuant to Civil  
5 Local Rule 7-1(b). Even so, the Court reserves its formal  
6 determination for August 25, 2015, to allow for review of any  
7 updated Reply and the response to the ORDER to SHOW CAUSE.

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9 IT IS SO ORDERED.

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11 Dated: August 17, 2015



UNITED STATES DISTRICT JUDGE

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