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 8 **UNITED STATES DISTRICT COURT**
 9 **NORTHERN DISTRICT OF CALIFORNIA**

10
 11 FRANCISCA MORALEZ,
 12 Plaintiff,
 13 vs.

)
) **3:14-cv-5022-ECM**
)
)
) **PLAINTIFF'S REQUEST FOR**
) **ADDITIONAL TIME TO FILE**
) **AMENDED COMPLAINT**

) ORDER

14
 15 WHOLE FOODS MARKET CALIFORNIA
 16 INC.,
 17 Defendant.

18
 19 **INTRODUCTION**

20 This is a civil rights matter for damages and injunctive
 21 relief for an incident that occurred at Defendant.
 22
 23
 24
 25
 26
 27

28 3:14-cv-5022
 PLAINTIFFS' REQUEST

1 The complaint was filed on November 13, 2014. The first
2 amended complaint was filed on March 20, 2015¹. The second
3 amended complaint was filed on June 26, 2015.

4 Defendant filed a Federal Rule of Civil Procedure 12(b)(6)
5 motion to dismiss on July 21, 2015.

6 On December 9, 2015 the Honorable Edward M. Chen granted
7 Plaintiff's motion to dismiss without prejudice. (Dkt. 47).
8 The detailed and well-written decision clearly laid out the
9 court's decision as to each and every cause of action.
10

11 On December 10, 2015 the parties participated in a Status
12 Conference before the Honorable Edward M. Chen. During the
13 hearing Judge Chen asked Plaintiff's counsel whether or not his
14 client wished to proceed with filing an amended complaint
15 consistent with the court's ruling from December 9, 2015. At
16 that time Plaintiff's counsel indicated he did not know how
17 Plaintiff wished to proceed
18

19
20 Shortly after the court appearance, counsel for Plaintiff
21 exchanged emails on the issues discussed in the court's ruling.
22 However, at no point during the email exchange did Plaintiff and
23 her counsel make a final decision on how to proceed.
24

25 ¹ The complaint erroneously named a defendant with a similar name
26 but not the desired and current defendant. Defendant's counsel
27 notified plaintiff's counsel of the error and plaintiff
28 immediately corrected the error and filed the first amended
complaint.

1 On December 17, 2015 Plaintiff became violently ill.
2 According to Plaintiff, on that day she became violently ill and
3 suffered from a migraine headache, body aches and pain and
4 fever. Plaintiff suffered from nausea. Initially, Plaintiff
5 was very ill but she could engage in low-level daily functions.
6 When Plaintiff's condition did not improve over time she was
7 taken to the hospital on December 22, 2015. Plaintiff's
8 physician prescribed antibiotics and supplements to assist her
9 immune system. However, the medicine did not work. In fact,
10 Plaintiff became even more ill after taking the prescribed
11 medication.
12

13
14 Beginning on December 22, 2015 Plaintiff was bedridden and
15 unable to engage in any daily functions except the most basic.
16 Plaintiff was bedridden for 5 days. Plaintiff reports she did
17 not get out of bed until December 27, 2015.
18

19 Because of Plaintiff's illness she has not met and
20 conferred with counsel in two weeks. Plaintiff did not respond
21 to any of counsel's emails over the last several weeks.
22 Plaintiff finally responded to counsel within the last two days.
23 Plaintiff immediately reported to counsel she violently ill and
24 was not in a position to respond to the emails.
25

26 Because of Plaintiff's illness Plaintiff and counsel have
27 not had adequate time to discuss the issues and determine an
28

1 appropriate way to proceed. According to Plaintiff because of
2 her illness she has not had enough time to meet and confer with
3 counsel to make an informed decision as to how to proceed.
4 Counsel agrees.

5 Plaintiff understands this case is old and needs to be
6 moved forward. However, Plaintiff also believes Defendant would
7 not suffer any prejudice with an additional two week extension.
8 On the other hand, Plaintiff would be severely prejudiced should
9 the court not allow her adequate time to meet and confer with
10 counsel. Additionally, Plaintiff's request is through no fault
11 of her own.
12

13
14 Plaintiff requests an additional 2 weeks for her to
15 respond. Plaintiff requests the new date for the filing of an
16 amended complaint be extended to January 13, 2016.
17

18 **CONCLUSION**

19
20 Based on the foregoing Plaintiff respectfully requests the
21 court grant her request.
22
23
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1
2 DATED: December 30, 2015

HUMPHREY LAW GROUP

3
4 /s/Russell S. Humphrey
5 By: Russell S. Humphrey
6 Attorney for Plaintiff

7
8 DECLARATION OF ATTORNEY RUSSELL S. HUMPHREY

9
10 I RUSSELL S. HUMPHREY declare as follows:

- 11
12 1. I am an attorney duly licensed to practice law in the
13 highest court in the state of California and the United
14 States District Court Northern District of California.
15
16 2. I am the attorney for Plaintiff Francisca Morales in the
17 case of Morales v. Whole Foods, 3:14-cv-5022-EMC.
18
19 3. On December 9, 2015 the Honorable Edward M. Chen granted
20 Defendant's motion to dismiss without prejudice. (Dkt.
21 47). The court's decision was detailed as to each and
22 every cause of action.
23
24 4. On December 10, 2015 the parties appeared before Judge Chen
25 for a Settlement Conference. At the conference Judge
26 Chen asked me whether Ms. Morales planned on filing an
27 amended complaint consistent with the court's decision.

28 3:14-cv-5022
PLAINTIFFS' REQUEST

1 I responded although I read the court's decision I had
2 not spoken with Plaintiff concerning it's content and how
3 she would like to proceed.

4 5. Shortly after the court appearance on December 10, 2015, I
5 exchanged emails with Plaintiff on the issues discussed
6 in the court's ruling. However, at no point during the
7 email exchange did Plaintiff and I make any decisions on
8 how to proceed.
9

10 6. On December 17, 2015 Plaintiff became violently ill.

11 Plaintiff reported to me that on that day she became
12 violently ill and suffered from a migraine headache, body
13 aches and pain and fever. Plaintiff suffered from
14 nausea. Initially, Plaintiff was very ill but she could
15 engage in low-level daily functions. When Plaintiff's
16 condition did not improve over time she was taken to the
17 hospital on December 22, 2015. Plaintiff's physician
18 prescribed antibiotics and supplements to assist her
19 immune system. However, the medicine did not work. In
20 fact, Plaintiff became even more ill after taking the
21 prescribed medication.
22
23

24 7. Plaintiff further reported to me that beginning on December
25 22, 2015 Plaintiff was bedridden and unable to engage in
26 **any** daily functions except the most basic. Plaintiff was
27

1 bedridden for 5 days. Plaintiff reported she did not get
2 out of bed until December 27, 2015.

3 8. Because of Plaintiff's illness she did not meet and
4 conferred with me for two weeks. Plaintiff did not
5 respond to any of my emails over the last several weeks.
6 Plaintiff finally responded to my emails within the last
7 two days. Plaintiff immediately reported to me she
8 violently ill and was not in a position to respond to the
9 emails.
10

11 9. Because of Plaintiff's illness, and through no fault of her
12 won, Plaintiff and I have not had adequate time to
13 discuss the issues and determine an appropriate way to
14 proceed.
15

16 10. According to Plaintiff because of her illness she has not
17 had enough time to meet and confer with counsel to make
18 an informed decision as to how to proceed.
19

20 11. Plaintiff would be irreparably harmed if the court denies
21 her request.
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23 I declare the foregoing is true and correct to the best of my
24 knowledge under penalty of perjury.
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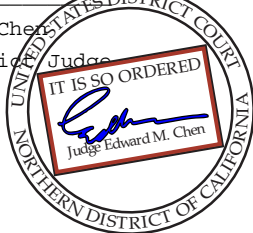
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/s/ Russell S. Humphrey

Russell S. Humphrey
Attorney for Defendant

IT IS SO ORDERED:

Edward M. Chen
U.S. District Judge



The seal is circular with the text "UNITED STATES DISTRICT COURT" at the top and "NORTHERN DISTRICT OF CALIFORNIA" at the bottom. In the center, there is a signature in blue ink and the text "IT IS SO ORDERED" and "Judge Edward M. Chen" below it.