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United States District Court
For the Northern District of California

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

BERKELEY RESEARCH GROUP, LLC, a
Nevada limited liability company,

Plaintiff,

v.

UNITED POTATO GROWERS OF
AMERICA, INC., an Idaho corporation;
UNITED POTATO GROWERS OF IDAHO,
INC., an Idaho corporation; IDAGRO, INC.,
an Idaho corporation; ALBERT WADA, an
Idaho resident; WADA FARMS, INC., an
Idaho corporation; WADA FARMS
POTATOES, INC., an Idaho corporation;
WADA FARMS MARKETING GROUP,
LLC, an Idaho limited liability company;
WADA-VAN ORDEN POTATOES, INC., an
Idaho corporation; CEDAR FARMS, INC., an
Idaho corporation; WADA FAMILY, LLC, an
Idaho limited liability company; PROFRESH,
LLC, an Idaho limited liability company;
JEFF RAYBOULD, an Idaho resident;
RAYBOULD BROTHERS FARMS, LLC, an
Idaho limited liability company; MICHAEL
CRANNEY, an Idaho resident;
CORNELISON FARMS, INC., a former
Idaho corporation; KEITH CORNELISON, an
Idaho resident; SNAKE RIVER PLAINS
POTATOES, INC., an Idaho corporation;
LANCE FUNK, an Idaho resident;
PLEASANT VALLEY POTATO, INC., an
Idaho corporation; KCW FARMS, INC., an
Idaho corporation; KIM WAHLEN, an Idaho
resident; and DOES 1-100,

Defendants.

No. C 16-07205 WHA

**ORDER ALLOWING
SURREPLY AND DENYING
MOTION TO SHORTEN TIME
AND MOTION FOR
EXTENSION OF TIME**

1 Plaintiff's reply in support of their motion to remand includes six declarations that could
2 have been offered with their initial motion. Plaintiff acknowledges that its use of reply
3 evidence contravenes the undersigned judge's standing order (Reply at 3 n.1). To prevent any
4 prejudice as a result of plaintiff's sandbagging, defendants may also file a surreply by
5 **FEBRUARY 28, 2017.**

6 Defendants' motion to shorten time to hear their own motion to dismiss for lack of
7 personal jurisdiction or transfer venue (Dkt. No. 13) is **DENIED**. Defendants invoked federal
8 jurisdiction and must face the scheduled challenge to it. They cannot skirt plaintiff's motion
9 now by bringing their own motion that could have been heard in state court two months ago.

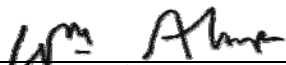
10 Plaintiff's motion to extend time to file their response to defendants' motion (Dkt. No.
11 16) is also **DENIED**. Plaintiff faces little burden — it need only explain why it was proper to file
12 its action in the state it did. In any event, if Plaintiff succeeds on its motion to remand, it may
13 recycle its efforts if defendants bring a renewed motion to dismiss in state court.

14 The schedule in the pending motions shall remain as follows, with the addition of the
15 surreply deadline:

- 16 • Surreply on motion *to remand* due by **FEBRUARY 28, 2017.**
- 17 • Response to motion to dismiss due by **MARCH 2, 2017.**
- 18 • Hearing on motion *to remand*: **MARCH 9, 2017 AT 8:00 A.M.**
- 19 • Reply to response to motion to dismiss due by **MARCH 9, 2017.**
- 20 • Hearing on motion to dismiss: **MARCH 23, 2017 AT 8:00 A.M.**

21
22 **IT IS SO ORDERED.**

23
24 Dated: February 23, 2017.

25 
26 _____
27 WILLIAM ALSUP
28 UNITED STATES DISTRICT JUDGE