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19 UNITED STATES DISTRICT COURT

20 NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

21 JAMES CUNHA, an individual, on behalf of
22 himself and all others similarly situated,

23 Plaintiffs,

24 vs.

25 INTELICHECK, LLC, a California Limited
26 Liability Company; PROPACIFIC FRESH,
27 INC., a California Corporation; and Does 1
28 through 100,

Defendants.

CASE NO. 3:17-cv-00597-JST

**JOINT STIPULATION AND ~~PROPOSED~~
ORDER CONTINUING CLASS
CERTIFICATION BRIEFING BY TWO
WEEKS**

Action Filed: December 21, 2016
Summons Served: January 6, 2017
Removal Date: February 6, 2017
Trial Date: None set

29 Pursuant to Civ. L.R. 16-2(d), Plaintiff James Cunha (“Plaintiff”), by and through his
30 attorneys, and Chico Produce, Inc. (“Chico Produce”), by and through its attorneys, Lewis
31 Brisbois Bisgaard & Smith, LLP, files this Joint Stipulation Continuing the Class Certification

1 Briefing By Two Weeks. In support of this Joint Stipulation, Chico Produce and Plaintiff state as
2 follows:

3 1. Plaintiff James Cunha filed his Class Action Complaint on December 20, 2016 in
4 the Superior Court of the State of California for the County of Humboldt.

5 2. On February 6, 2017, Chico Produce removed the action to this Court (ECF No. 1.)

6 3. On May 25, 2017, the Court heard Defendant Chico Produce's second Motion to
7 Dismiss, which was granted in part and denied in part. (ECF No. 59.)

8 4. On June 17, 2017, the Court issued a Scheduling Order stating that the Plaintiff had
9 until February 13, 2018 to file his Motion for Class Certification. (ECF No. 70).

10 5. On September 18, 2017, Chico Produce served its responses to Plaintiff's First Set
11 of Interrogatories. In those responses, Chico Produce stated that 47 people had signed the same
12 authorization and disclosure forms as Plaintiff as part of their application for employment with
13 Chico Produce.

14 6. On October 10, 2017, Chico Produce produced a list of 47 individuals who it
15 identified as members of the putative class.

16 7. On October 13, 2017, the Parties filed two separate Joint Letter Briefs regarding
17 Chico Produce's responses to Plaintiff's First Set of Interrogatories (ECF Nos. 91 and 92), which
18 were referred to the Magistrate. (ECF No. 93).

19 8. On November 16, 2017, the Parties were ordered to attend proceedings in front of
20 the Hon. Magistrate Judge Joseph C. Spero, and the Parties agreed that Chico Produce would
21 produce amended responses to discovery and produce additional documents.

22 9. On December 22, 2017, pursuant to the Parties' agreement, Chico Produce served
23 amended responses to Plaintiff's First Set of Interrogatories. In the responses served on December
24 22, 2017, Chico Produce stated that 92 individuals had undergone a consumer report as part of
25 their application for employment with Chico Produce. Additionally, on December 22, 2017, Chico
26 Produce produced 334 pages of documents. It did not update the October 10, 2017 class list at that
27 time.

28 10. On January 26, 2018, the Parties submitted a Letter Briefs regarding Plaintiff's

1 Responses to Chico Produce's written discovery. (ECF Nos. 102 and 103).

2 11. On February 2, 2018, the Parties and the Court held a Case Management
3 Conference where Plaintiff raised his concerns regarding discovery the disparity in the number of
4 class members stated by Chico Produce in its various responses. Chico Produce also raised
5 discovery issues at the February 2, 2018 hearing. As a result, the Court scheduled February 14,
6 2018 as the date by which the Parties shall submit a Joint Letter Brief on their discovery issues to
7 the Magistrate. (ECF No. 105).

8 12. On February 9, 2018, the Magistrate issued an order requiring the Parties to attend
9 a discovery conference on February 23, 2018 regarding the Letter Briefs filed on January 26,
10 2018. (ECF No. 106). The Magistrate's order also stated that it would seek to resolve the issues
11 raised at the February 2, 2018 Case Management Conference on February 23, 2018. The Court's
12 clerk has stated that the Magistrate will not require any letter briefs until after the February 23,
13 2018 meet and confer session, and only then to address any unresolved issues.

14 13. As a result, the Magistrate's conference set for February 23, 2018 may very well
15 resolve several discovery disputes that will impact Plaintiff's Motion for Class Certification, as
16 well as Defendant's defenses to Plaintiff's Motion.

17 14. Further, the Parties are currently exploring deposition dates for Chico Produce's
18 30(b)(6) witness on or shortly after February 27, 2018.

19 15. Thus, to allow the Parties to complete discovery, and to resolve all ongoing
20 discovery disputes, the Parties request the Court modify the Scheduling Order (ECF No. 70) as
21 follows:

- 22 a. Deadline to File Class Certification Motion – March 9, 2018
 - 23 b. Deadline to File Opposition to Class Certification – April 6, 2018
 - 24 c. Deadline to File Class Certification Reply – April 20, 2018
 - 25 d. Class Certification Hearing – May 10, 2018
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KEEGAN & BAKER LLP

Date: February 13, 2018

/s/ James M. Treglio

Patrick N. Keegan
James M. Treglio
Attorney for Plaintiff
JAMES CUNHA

Date: February 13, 2018

LEWIS BRISBOIS BISGAARD & SMITH
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/s/ Derek S. Sachs

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Attorney for Defendant
CHICO PRODUCE, INC., D/B/A CHICO
PRODUCE FRESH, INC.

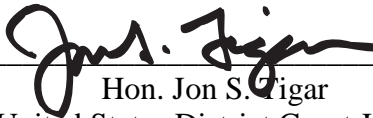
~~PROPOSED~~ ORDER

**PURSUANT TO STIPULATION, AND GOOD CAUSE APPEARING, IT IS SO
ORDERED THAT**

The Court's June 17, 2017 Scheduling Order (ECF No. 70) is hereby modified as follows:

- a. Deadline to File Class Certification Motion – March 9, 2018
- b. Deadline to File Opposition to Class Certification – April 6, 2018
- c. Deadline to File Class Certification Reply – April 20, 2018
- d. Class Certification Hearing – May 10, 2018

DATED: February 14, 2018



Hon. Jon S. Fingar
United States District Court Judge