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7 Attorney for Defendants Balanced  
 8 Health Products, Inc. and Nikki Haskell

9 UNITED STATES DISTRICT COURT  
 10 NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION

11 GRADY JACKSON and KELLEY  
 12 ALEXANDER, in their representative  
 13 capacity pursuant to Cal. Bus. & Prof. Code  
 14 §§17203, 17535 and Cal. Code Civ. Pro. §§  
 382, 1021.5,

15 Plaintiffs,

16 vs.

17 BALANCED HEALTH PRODUCTS, INC., a  
 18 Delaware Corporation, NIKKI HASKELL, an  
 19 individual, GENERAL NUTRITION  
 20 CORPORATION, a Pennsylvania Corporation,  
 21 GENERAL NUTRITION CENTERS, INC., a  
 22 Pennsylvania Corporation; VITAMIN SHOPPE  
 23 INDUSTRIES, Inc. a New York Corporation;  
 and, DOES 1-50, inclusive,

Defendants.

CASE NO. C08-05584-CW

*[Assigned to the Hon. Claudia Wilken]*

**STIPULATION TO CONTINUE REPLY  
 AND SUBMISSION OF DEFENDANT  
 NIKKI HASKELL'S MOTION TO  
 DISMISS SECOND AMENDED  
 COMPLAINT; ORDER**

**[LOCAL RULE 6-1(A)]**

24 IT IS HEREBY STIPULATED by and between the parties, Plaintiffs Grady Jackson and  
 25 Kelley Alexander and Defendant Nikki Haskell, through their respective counsel, pursuant to  
 26 Local Rule 6-1(a), with reference to the following facts:

27 1. By Clerk's Notice dated August 18, 2009, the Clerk gave notice to the parties that, on  
 28 its own motion, this Court ordered that (a) Defendant Nikki Haskell's Motion to Dismiss Second

1 Amended Complaint would be taken under submission on the papers and that the hearing,  
2 previously scheduled for September 10, 2009, was vacated, (b) Opposition to the motion would be  
3 due August 20, 2009 and (c) any Reply would be due August 27, 2009;

4 2. On August 26, 2009, at a Further Settlement Conference in this matter held before the  
5 Honorable Joseph C. Spero, the parties reached an agreement in principal to settle the entire case;

6 3. The proposed settlement is currently being documented, a process that will likely take  
7 a few weeks to complete;

8 4. Judge Spero has issued an order for a Further Settlement Conference set on October 1,  
9 2009, if necessary, to ensure that the settlement documenting process proceed and are completed;

10 5. In light of the foregoing, and in the very unlikely event that the matter does not settle,  
11 Plaintiffs and Defendant Haskell wish to continue the date for her Reply and, thus, for this Court  
12 to thereafter take under submission Defendant Haskell's Motion to Dismiss the Second Amended  
13 Complaint thereafter, to October 8, 2009.

14 **IT IS THEREFORE STIPULATED** that Defendant Nikki Haskell shall have up to and  
15 including October 8, 2009 to file a Reply to Plaintiffs' Opposition to Defendant Haskell's Motion  
16 to Dismiss Second Amended Complaint and that the Court will thereafter take the matter under  
17 submission on the papers.

18 Dated: August 27, 2009 FARBER & COMPANY ATTORNEYS

19  
20 By: /s/ Eric J. Farber  
Eric J. Farber  
Attorneys for Plaintiffs Grady Jackson and Kelley Alexander

21 Dated: August 27, 2009 PINNACLE LAW GROUP, LLP

22  
23 By: /s/ Andrew A. August  
Andrew A. August  
Attorneys for Plaintiffs Grady Jackson and Kelley Alexander

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25  
26 Dated: August 27, 2009 /s/ David L. Gernsbacher  
David L. Gernsbacher,  
27 Attorney for Defendants Balanced Health Products, Inc.  
and Nikki Haskell

1 **PURSUANT TO THE STIPULATION, IT IS SO ORDERED.**

2 

3 \_\_\_\_\_  
4 United States District Judge

5 9/1/09  
6 Dated: \_\_\_\_\_

7  
8 **ATTESTATION OF CONCURRENCE IN FILING**

9 Pursuant to N.D. Cal. General Order No. 45, section 45 X(B), David L. Gernsbacher  
10 hereby attests that concurrence in the filing of this stipulation and proposed order has been  
11 obtained from counsel for the non-filing parties.  
12

13 /s/ David L. Gernsbacher  
14 David L. Gernsbacher,  
15 Attorney for Defendants Balanced Health  
16 Products, Inc. and Nikki Haskell  
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**PROOF OF SERVICE**

I am over the age of 18 and not a party to the within action. My business address is 9107 Wilshire Blvd., Suite 450, Beverly Hills, CA 90210.

On August 27, 2009, I served the document described as **STIPULATION TO CONTINUE REPLY AND SUBMISSION OF DEFENDANT NIKKI HASKELL’S MOTION TO DISMISS SECOND AMENDED COMPLAINT; ORDER** through the Notice of Electronic Filing (“ECF”) for parties and counsel, all of whom are registered ECF Users:

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Attorneys for Vitamin Shoppe Industries, Inc.

I declare under penalty of perjury under the laws of the United States of America, that the foregoing is true and correct.

Executed on August 27, 2009, at Beverly Hills, California.

/s/ David L. Gernsbacher  
David L. Gernsbacher