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 8 Health Products, Inc. and Nikki Haskell

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

12 GRADY JACKSON and KELLEY  
 13 ALEXANDER, in their representative  
 14 capacity pursuant to Cal. Bus. & Prof. Code  
 15 §§17203, 17535 and Cal. Code Civ. Pro. §§  
 16 382, 1021.5,

17 Plaintiffs,

18 vs.

19 BALANCED HEALTH PRODUCTS, INC., a  
 20 Delaware Corporation, NIKKI HASKELL, an  
 21 individual, GENERAL NUTRITION  
 22 CORPORATION, a Pennsylvania  
 23 Corporation, and VITAMIN SHOPPE  
 24 INDUSTRIES, INC., a New York  
 25 Corporation, inclusive,

26 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)]**

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

1. By Clerk's Notice dated August 18, 2009, the Clerk gave notice to the parties that, on  
 its own motion, this Court ordered that (a) Defendant Nikki Haskell's Motion to Dismiss Second  
 Amended Complaint would be taken under submission on the papers and that the hearing, previously  
 scheduled for September 10, 2009, was vacated, (b) Opposition to the motion would be due August

1 20, 2009 and (c) any Reply would be due August 27, 2009;

2 2. By Stipulation and Order, the date for a Reply to Plaintiffs' Opposition was  
3 continued to October 8, 2009;

4 3. A proposed settlement of the entire case is currently being documented, a process that  
5 will likely take a few more weeks to complete;

6 4. In light of the foregoing, and in the very unlikely event that the matter does not settle,  
7 Plaintiffs and Defendant Haskell wish to continue the date for her Reply and, thus, for this Court  
8 to thereafter take under submission Defendant Haskell's Motion to Dismiss the Second Amended  
9 Complaint thereafter, to November 16, 2009.

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

14 Dated: October 15, 2009 FARBER & COMPANY ATTORNEYS

15 By: /s/ Eric J. Farber  
16 Eric J. Farber  
17 Attorneys for Plaintiffs Grady Jackson and Kelley Alexander

18 Dated: October 15, 2009 /s/ David L. Gernsbacher  
19 David L. Gernsbacher,  
20 Attorney for Defendants Balanced Health Products, Inc.  
and Nikki Haskell

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

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23 \_\_\_\_\_  
24 United States District Judge

25 10/21/09

26 Dated: \_\_\_\_\_  
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**ATTESTATION OF CONCURRENCE IN FILING**

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

*/s/ David L. Gernsbacher*\_\_\_\_\_  
David L. Gernsbacher,  
Attorney for Defendants Balanced Health  
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 October 15, 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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I declare under penalty of perjury under the laws of the United States of America, that the foregoing is true and correct.

Executed on October 15, 2009, at Beverly Hills, California.

/s/ David L. Gernsbacher  
David L. Gernsbacher