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9 Attorneys for Defendant GelTech Solutions, Inc.

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 12 **UNITED STATES DISTRICT COURT**
 13 **NORTHERN DISTRICT OF CALIFORNIA**
 14

15 SUSAN P. MARTIN and DAVID E. NEAL,
 16
 17 Plaintiffs,

18 V.

19 GELTECH SOLUTIONS, INC. and ROOTGEL
 WEST
 20 Defendants.

Case No. C09-04884 CW

**STIPULATION AND ORDER CHANGING
 TIME OF BRIEFING SCHEDULE ON
 PLAINTIFFS' MOTION FOR SUMMARY
 JUDGMENT; SUPPORTING DECLARATION
 OF EDWARD F. McHALE**

[Civil L.R. 6-2]

21
 22
 23 **STIPULATION**
 24

25 Plaintiffs Susan P. Martin and David E. Neal and Defendant GelTech Solutions, Inc.
 26 (“Defendant”), by and through their respective counsel of record, hereby stipulate pursuant to Civil
 27 L.R. 6-2 for a an order changing the briefing schedule on Plaintiffs’ Motion for Summary Judgment,
 28 filed by Plaintiff on December 11, 2009 (the “Motion”), as follows: Opposition to the Motion shall be

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2 filed and served on or before January 7, 2010. Any reply in support of the Motion shall be filed and
3 served on or before January 14, 2010.

4 This Stipulation is supported by the accompanying Declaration of Edward F. McHale,
5 submitted in compliance with Civil L.R. 6-2(a).

6
7 **IS SO STIPULATED.**

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9 Dated: December 29, 2009

ZIMMERMAN & CRONEN, LLP

10
11 By: /s/ Michael James Cronen

Michael James Cronen

12 Attorneys for Plaintiffs Susan P. Martin and
13 David E. Neal

14 Dated: December 29, 2009

McHALE & SLAVIN, P.A.

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16 By: /s/ Edward McHale

Edward McHale

17 Attorneys for Defendant GelTech Solutions,
18 Inc.

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20 **ORDER**

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22 PURSUANT TO STIPULATION, IT IS SO ORDERED.

23
24 Dated: December 29, 2009



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26 UNITED STATES DISTRICT JUDGE

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DECLARATION OF EDWARD F. McHALE

I, EDWARD F. McHALE, declare as follows:

1. I make this Declaration in connection with the parties' Stipulation and [Proposed] Order Changing Time of Briefing Schedule on Plaintiff's Motion for Summary Judgment, pursuant to Civil L.R. 6-2(a).

2. I am lead counsel for GelTech Solutions, Inc. in the declaratory judgment action which has been filed in the Southern District of Florida in the case of GelTech Solutions, Inc. v. Marteal, Ltd., d/b/a Dyna-Gro Nutrition Solutions, Case No. 09-CV-81027-MARRA/JOHNSON, and will be responsible for assembling necessary affidavits and writing the Opposition Memorandum for provision to California counsel David Ribakoff, in the case pending before this court.

3. Though the Plaintiff's Motion for Summary Judgment was filed on December 11, 2009, I first viewed the Motion on December 16, 2009, due to the fact that I was out of the office and out-of-town when the Motion was filed. On December 17, 2009, this court set a deadline for the filing of the Defendant's Response to the Motion for Summary Judgment for Thursday, December 31, 2009.

4. I thereafter contacted the president of the Defendant, GelTech Solutions, Inc. regarding his and other employees' availability during the Christmas holidays for the preparation of needed employee Declarations, and participation in preparing the Defendant's Opposition to the Motion. Because of the Christmas holidays, scheduling meetings for developing the Defendant's Response and work on opposing the Motion has been somewhat affected.

5. My law firm will be closed on December 24th, 25th, 31st, and January 1st, which shortens my secretary's availability for typing the Declarations and Opposition to the Motion and

1 assistance in assembling exhibits. Additionally, the Nova University Law Library where I do the
2 bulk of my legal research will be closed from December 24th thru January 3rd.

3 6. On December 23, 2009, I spoke with Counsel for the Plaintiff, Michael James
4 Cronen, regarding a Stipulation for a one-week extension of time for the briefing deadlines set by the
5 Court. Mr. Cronen agreed to this extension and authorized me to execute the foregoing stipulation
6 on his behalf.
7

8 7. Pursuant to Civil L.R. 6-2(a)(2), the only previous time modification in this case was
9 a one-week stipulated extension for Defendant GelTech to move, answer or otherwise respond to the
10 Complaint, which was filed on November 30, 2009.
11

12 8. Pursuant to Civil L.R. 6-2(a)(3), the foregoing stipulated extension of time would
13 have no effect on the schedule for the case.
14

15 I declare under the law of perjury under the laws of the United States of America that the
16 foregoing is true and correct.

17 Executed at Palm Beach Gardens, Florida, this 23rd day of December, 2009.
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21 _____
Edward F. McHale
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1 **CERTIFICATE OF SERVICE BY ECF FILING**

2
3 I, DAVID Z. RIBAKOFF, certify that:

4
5 I am a citizen of the United States, over the age of eighteen years, and not a party to this
6 action. My business address is 6080 Center Drive, Suite 610, Los Angeles, CA 90045.

7 On December 16, 2009, I electronically filed

8 **STIPULATION AND [PROPOSED] ORDER CHANGING TIME OF BRIEFING**
9 **SCHEDULE ON PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT; SUPPORTING**
10 **DECLARATION OF EDWARD F. McHALE**

11 with the Clerk of the courts by using the ECF system which will send a notice of electronic filing to
12 the following:

13 Michael James Cronen, Esq. Attorneys for Plaintiffs
14 Zimmerman & Cronen
15 1330 Broadway Avenue
16 Suite 710
17 Oakland, CA 04612-2506
18 Telephone: 510-465-0828
19 Facsimile: 510-465-2041
20 E-Mail: mcronen@zimpatent.com

21 I declare under penalty of perjury that the foregoing is true and correct.

22 Executed this 23rd day of December, 2009, at Los Angeles, California.

23 /s/ David Z. Ribakoff
24 David Z. Ribakoff