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7 Attorneys for Defendant:  
 Honest Tea, Inc.

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10 **UNITED STATES DISTRICT COURT**  
 11 **NORTHERN DISTRICT OF CALIFORNIA**  
 12 **SAN FRANCISCO DIVISION**

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SCOTT WITTHOFF, an individual, on behalf  
 of himself, the general public and those  
 similarly situated,

Plaintiff,

v.

HONEST TEA, INC.; AND DOES 1  
 THROUGH 50

Defendants.

CASE NO. CV-10-05442 (SBA)

**JOINT STIPULATION AND ORDER TO  
 EXTEND TIME TO MOVE TO REMAND  
 AND TO FILE AMENDED COMPLAINT  
 BY FOUR DAYS**

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This stipulation is between Plaintiff SCOTT WITTHOFF (“Plaintiff”) and Defendant  
 HONEST TEA, INC. (“Defendant”). The parties have agreed as follows:

WHEREAS, on October 29, 2010, Plaintiff filed a class action complaint in San Francisco  
 Superior Court;

WHEREAS, on December 1, 2010, Defendant removed Plaintiff’s class action complaint  
 to this Court (Dkt.# 1);

1           WHEREAS, on December 8, 2010, Defendant filed an answer to Plaintiff’s complaint  
2 (Dkt. #5);

3           In its notice of removal, Defendant argued that this Court has jurisdiction under the Class  
4 Action Fairness Act because the parties are diverse and there is more than \$5 million in  
5 controversy;

6           Plaintiff has stated that he intends to file an amended Complaint that will clarify that he is  
7 seeking on behalf of himself and a putative class a total of less than \$5 million in damages, and  
8 proposed that Defendant stipulate to a remand of this action to state court;

9           Plaintiff provided a draft amended complaint and proposed stipulation to remand this  
10 action to state court to counsel for Defendant on December 29, 2010;

11           The current deadline for Plaintiff to file a motion for remand pursuant to 28 U.S.C. §  
12 1447(c) and to file an amended complaint pursuant to Fed. R. Civ. P. 15(a) is Monday, January 3,  
13 2011.

14           So that the parties may attempt to reach a stipulated agreement concerning remand and an  
15 amended complaint, and in light of the unavailability of the principals of Defendant Honest Tea to  
16 review Plaintiff’s proposed amended complaint and proposed stipulation for remand before  
17 January 3, 2011 during the present holiday schedule, the parties jointly stipulate to and request that  
18 the Court order that Plaintiff’s deadlines for filing a motion to remand pursuant to 28 U.S.C. §  
19 1447(c) and to file an amended complaint pursuant to Fed. R. Civ. P. 15(a) be extended by four  
20 days, up to and including Friday, January 7, 2011.

21           Neither party has previously requested an extension of time for this or any other deadline  
22 in this action.

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NOW THEREFORE, THE PARTIES STIPULATE AND AGREE TO THE  
FOLLOWING:

(1) Plaintiff's deadline to move to remand this action to state court, pursuant to 28 U.S.C. § 1447(c) shall be extended from Monday, January 3, 2011 up to and including Friday, January 7, 2011.


(2) Plaintiff's deadline to file an amended complaint pursuant to Fed. R. Civ. P. 15(a) shall be extended from Monday, January 3, 2011 up to and including Friday, January 7, 2011.

DATED this 30th day of December, 2010

/s/ Seth Safier  
Seth Safier (SBN: 197427)  
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Fax: 415.677.9041  
Attorneys for Defendant  
*Honest Tea, Inc.*

IT IS SO ORDERED this \_5th day of January, 2011.

  
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The Honorable Sandra B. Armstrong  
United States District Judge

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**ATTESTATION OF SIGNATURE**

**(N.D. Cal. General Order No. 45)**

Pursuant to N.D. Cal. General Order No. 45 § X(B), I hereby attest under penalty of perjury that concurrence in the filing of this document has been obtained by all the signatories.

Dated: December 30, 2010

By: /s/ Forrest A. Hainline III  
Forrest A. Hainline III

**PROOF OF SERVICE**

I further certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non registered participants on this 30th day of December, 2010.

/s/ Forrest A. Hainline III  
Forrest A. Hainline III

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