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SPECIALTY'S CAFE AND BAKERY, INC.,
17 and CRAIG SAXTON

18 UNITED STATES DISTRICT COURT
19 NORTHERN DISTRICT OF CALIFORNIA

20 NICOLA COVILLO, TROYREAC HENRY
21 and JOHN CHISHOLM, individually and on
behalf of all others similarly situated,

22 Plaintiffs,

23 v.

24 SPECIALTY'S CAFE AND BAKERY, INC.,
25 and CRAIG SAXTON,

26 Defendants.

Case No. 11-CV-00594-DMR

**STIPULATION AND [PROPOSED]
ORDER CONTINUING DEADLINE TO
FILE JOINT LETTER REGARDING
DISCOVERY DISPUTES**

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1 The parties hereby stipulate as follows:

2 WHEREAS, on or about April 17, 2012, Plaintiffs filed letters with the Court regarding
3 Plaintiffs' issues with Defendant Specialty's Café and Bakery, Inc. and Defendant Craig Saxton's
4 discovery responses. On April 20, 2012, the Court entered an Order requiring the parties to meet
5 and confer regarding the discovery dispute. The parties' current deadline to file a joint letter
6 regarding any discovery disputes is August 29, 2012;

7 WHEREAS, pursuant to the Court's April 20th Order, the parties have met and conferred
8 on numerous occasions, and have resolved many of their discovery issues. On May 15, 2012,
9 Defendants served amended and supplemental discovery responses. The Defendants also
10 produced additional documents and information in anticipation of the parties' mediation, which
11 took place on June 18, 2012;

12 WHEREAS, the parties' mediation proved unsuccessful and as a result, the parties have
13 continued to meet and confer regarding the outstanding discovery disputes. As a result of these
14 discussions, Defendants prepared amended responses to discovery requests and produced
15 thousands of documents.

16 WHEREAS, in light of the progress made, on August 21, 2012, the Court agreed to extend
17 the deadline to file a joint letter until August 29, 2012. Since that date the parties have continued
18 to make progress with respect to discovery disputes.

19 Since July 20, 2012, Defendants have produced:

- 20 • all timecard data pertaining to members of the California class, as requested by
21 Plaintiffs' counsel;
- 22 • all "coffee break" reports pertaining to members of the California class as requested
23 by Plaintiffs' counsel;
- 24 • a report concerning all "dirty invoices" for the entire class period;
- 25 • management handbooks;
- 26 • documents showing the accounting of tips;
- 27 • documents showing the accounting of delivery fees;

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- 1 • a sample “house floor operations schedule” (based upon agreement with Plaintiffs’
2 counsel); and
3 • a sample daily deployment chart (based upon agreement with Plaintiffs’ counsel).

4 Defendants have also served Plaintiffs with Amended Responses to Request for Production
5 of Documents, Set Two.

6 Since August 20, 2012 Defendants have:

- 7 • served Plaintiffs with Second Amended Responses to Request for Production of
8 Documents, Set Two
9 • served Plaintiffs with Second Amended Responses to Request for Production of
10 Documents, Set One.

11 Since August 21, 2012, the parties have continued their meet and confer efforts and:

- 12 • Defendants have agreed to provide Plaintiff with further Amended Responses
13 to Request for Production of Documents, Set One by August 30, 2012
14 • Defendants have agreed to provide Plaintiffs with Third Amended Responses to
15 Request for Production of Documents, Set Two by August 30, 2012
16 • Defendants have agreed to provide Plaintiffs with Amended Responses to
17 Request for Production of Documents, Set Three by August 30, 2012.

18 The parties continue to meet and confer to address outstanding discovery-related
19 issues. These issues include, without limitation, the following:

- 20 • E-mail correspondence. Defendants have conducted an initial search of e-mail
21 correspondence based on a set of over 60 search terms for several custodians
22 over the course of the class period. Defendants maintain the costs associated
23 with reviewing and producing such data are prohibitive and unduly
24 burdensome. Given the significant volume of data captured by an initial search
25 of e-mail correspondence, in order to avoid the production of duplicate email
26 correspondence, Plaintiffs have agreed to explore providing Defendants with a
27 refined list of search terms with which to conduct an e-mail search.
28

1 • Defendants have agreed to further explore the production of TMX-related data.
2 The parties have significantly narrowed the discovery-related issues in dispute over the last
3 several months. The parties continue to meet and confer to narrow those issues. Thus, to avoid
4 potentially unnecessary discovery motion practice, the parties request the Court provide the parties
5 with additional time to allow Defendants to modify further their responses and produce additional
6 documents and information. Additionally, the parties request additional time to resolve any
7 outstanding discovery issues that remain thereafter.
8

9 IT IS THEREFORE STIPULATED AND AGREED that to the extent there remain any
10 outstanding discovery disputes, the parties' current deadline to file a joint letter shall be continued
11 until September 7, 2012.

12 **IT IS SO STIPULATED.**

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14 Date: August 28, 2012

Respectfully submitted,

NORTH BAY LAW GROUP
By _____ /s/ _____
David Harris

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19 Date: August 28, 2012

Attorneys for Plaintiffs
NICOLA COVILLO, TROYREAC HENRY
and JOHN CHISHOLM

JACKSON LEWIS LLP
By _____ /s/ _____
Punam Sarad

Attorneys for Defendants
SPECIALTY'S CAFE AND BAKERY, INC.,
and CRAIG SAXTON

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23 **IT IS HEREBY ORDERED AS FOLLOWS:**

24 To the extent the parties are unable to resolve all discovery disputes through the continued
25 meet and confer process, the parties shall file a joint letter on or before September 7, 2012.

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27 DATED: August 29, 2012



Honorable Donna M. Ryu
United States Magistrate Judge