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3 UNITED STATES DISTRICT COURT
4 NORTHERN DISTRICT OF CALIFORNIA
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6 **ROBIN REESE, individually and on behalf of**
7 **all others similarly situated,**

8 **Plaintiff,**

9 **v.**

10 **ODWALLA, INC. AND THE COCA-COLA CO.,**

11 **Defendants.**

Case No.: 13-CV-947 YGR

**ORDER DISSOLVING STAY AND DIRECTING
FILING OF MOTION TO DISMISS**

12 In its March 25, 2014 Order (Dkt. No. 60), the Court granted the motion of Defendants
13 Odwalla, Inc. and The Coca-Cola Company (collectively “Odwalla”) based upon primary
14 jurisdiction grounds. The primary jurisdiction doctrine “allows courts to stay proceedings or to
15 dismiss a complaint without prejudice pending the resolution of an issue within the special
16 competence of an administrative agency...and is to be used only if a claim involves an issue of first
17 impression or a particularly complicated issue Congress has committed to a regulatory agency.”
18 *Clark v. Time Warner Cable*, 523 F. 3d 1110, 1114 (9th Cir. 2008). The Court granted the motion
19 to dismiss, but stayed the action rather than dismissing it without prejudice, while awaiting the
20 completion of the U.S. Food and Drug Administration’s (“FDA”) action concerning the term
21 “evaporated cane juice” (or “ECJ”).


22 On July 25, 2016, the parties filed a Joint Notice (Dkt. No. 85) indicating that the FDA had
23 completed its process and issued administrative guidance concerning ECJ and requesting that the
24 stay be lifted. Based thereon, the Court **ORDERS** that the Stay of this Action is **DISSOLVED**, and the
25 action may proceed.

26 In the Joint Notice, Odwalla also requests that the Court rule on the other grounds asserted
27 in its prior motion to dismiss. The prior motion to dismiss having been granted, there is no pending
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1 motion before the Court. Odwalla may file its motion to dismiss within 14 days of issuance of this
2 order on a regular, noticed-motion schedule on an available law and motion hearing date. In
3 briefing the motion and opposition, the parties are directed that their briefs and supporting papers
4 should be complete in themselves, and should **not** incorporate prior motions or briefing by
5 reference.

6 **IT IS SO ORDERED.**

7 Date: July 27, 2016

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YVONNE GONZALEZ ROGERS
UNITED STATES DISTRICT COURT JUDGE