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28UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MICHELLE GYORKE-TAKATRI AND KATIE SILVER, on behalf of themselves and others similarly situated,

Plaintiffs,

v.

NESTLE USA, INC. AND GERBER PRODUCTS COMPANY,

Defendants.

Case No. 15-cv-03702-YGR

ORDER DENYING MOTION FOR LEAVE TO FILE MOTION FOR RECONSIDERATION; DENYING MOTIONS FOR STAY, LEAVE TO SUBMIT ADDITIONAL EVIDENCE, AND TO SHORTEN TIME AS MOOT

Dkt. Nos. 44, 45

Presently before the Court are the Motions of Gerber Products Company (“Gerber”): (1) to stay entry and effect of remand order, for leave to file motion for reconsideration, and for leave to submit additional evidence (Dkt. No. 44); and (2) to shorten time on hearing for such motions (Dkt. No. 45). Having considered the briefs and supporting papers, as well as Plaintiffs’ Opposition to the Motion to Shorten Time (Dkt. No. 47), the Court **DENIES** the Motions.

Gerber’s motion for leave to file a motion for reconsideration does not meet the requirements for reconsideration set forth in Civil Local Rule 7-9(b). Gerber does not indicate that it intends to present facts that, in the exercise of reasonable diligence, it could not have presented in its opposition to the remand motion (or in its Notice of Removal). Nor does Gerber show that the remand order was based upon a “manifest failure by the Court to consider material facts or dispositive legal arguments which were presented to the Court *before* such interlocutory order.” Civil Local Rule 7-9(b)(3) (emphasis supplied).

Gerber’s arguments—that it should have been permitted to provide more or different evidence, to make additional legal arguments, or to argue for exceptions to the Rules of Evidence—all fail to persuade. Similarly, Gerber’s contention that it was not given sufficient time to marshal evidence to oppose the motion for remand or to respond to objections to its evidence

1 made in Plaintiffs' October 13, 2015 reply is not supported by the law or the facts here. The
2 motion for remand followed the normal 35-day briefing schedule and Gerber never sought
3 additional time to respond to the motion or to the reply. A motion for reconsideration is not an
4 opportunity for a disappointed party to shore up a losing position with new evidence and
5 arguments that, in hindsight, it should have marshalled in the first instance. Gerber has not shown
6 a basis for allowing a reconsideration motion.

7 Because the Court finds no basis for allowing a motion for reconsideration, the motion for
8 leave to gather and present additional factual information is **DENIED AS MOOT**. Likewise, since
9 Gerber's request for an order staying the remand is premised on the need for additional time
10 before filing its appeal to permit the Court to consider its motions for leave to file reconsideration
11 and to gather additional factual information, the motion for a stay is **DENIED AS MOOT**.

12 Finally, based on the foregoing rulings, the request to shorten time is **DENIED AS MOOT**.

13 This Order terminates Docket Nos. 44 and 45.

14 **IT IS SO ORDERED.**

15 Dated: November 10, 2015

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17 **YVONNE GONZALEZ ROGERS**
18 **UNITED STATES DISTRICT COURT JUDGE**

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