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E-FILED on 07/01/09

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IN THE UNITED STATES DISTRICT COURT

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FOR THE NORTHERN DISTRICT OF CALIFORNIA

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SAN JOSE DIVISION

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JOSE FERNANDO RAMIREZ, EVARADO
MONTEJANO, and SERGIO JACOBO, on
behalf of a class of similarly situated
employees,

No. C-07-02408 RMW

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Plaintiffs,

ORDER GRANTING MOTION TO CHANGE
TIME

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v.

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MILGARD MANUFACTURING,

[Re Docket No. 115]

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Defendants.

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Plaintiffs' motions for class certification and for certification of subclasses 1 through 4, and defendant's motion to deny class certification are presently set for hearing on July 17, 2009. On June 30, 2009, plaintiffs moved to change the time required to file their reply in light of the Supreme Court of California's decision in *Arias v. S.C. Dairy* (Case No. S155965), which plaintiffs contend implicates the class certification motions currently being briefed. Plaintiffs request that they be permitted to file their replies, which are presently due on Friday, July 3, on Tuesday, July 7, 2009.

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Defendant Milgard Manufacturing ("Milgard") opposes the motion, arguing that plaintiffs should not be permitted to raise new arguments in their reply and that plaintiffs' scheduling difficulties are in part of their own making. Milgard states, however, that *Arias* "addresses new matters that cannot be appropriately dealt with at the reply brief stage." Def.'s Opp. to Mot. to

ORDER GRANTING MOTION TO CHANGE TIME—No. C-07-02408 RMW


JAS

1 Change Time 2. Milgard requests, in the alternative, an opportunity to file a sur-reply on the *Arias*
2 issue.

3 Because there appears to be some agreement between the parties that *Arias* raises new issues,
4 the court grants plaintiffs' request to change time, and will allow Milgard to file a sur-reply. Unless
5 the parties agree otherwise, plaintiffs shall file their replies by July 10, 2009 and Milgard shall file
6 any sur-replies, limited to *Arias*-related issues raised in the reply, by July 17, 2009. The hearing on
7 the three class-certification motions is hereby continued to August 28, 2009, which is the court's
8 next available hearing date.

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DATED: 07/01/09



RONALD M. WHYTE
United States District Judge

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12 **Dated:** 07/01/09

JAS
Chambers of Judge Whyte

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