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5 Attorneys for Plaintiffs
Fresh Start Advantage, Inc. and
6 Fresh Kist Produce, LLC

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8 UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
9 SAN JOSE DIVISION

10 FRESH START ADVANTAGE, INC., a
11 corporation; and FRESH KIST
PRODUCE, LLC, a limited liability
12 company,

13 Plaintiffs,

14 v.

15 JOHN D. TAMAGNI, an individual, and
ROBERT ELLIOTT, an individual,

16 Defendants.
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CASE NO. C 08-03697 JSW

**CASE MANAGEMENT
CONFERENCE STATEMENT –
REQUEST TO CONTINUE CMC
AND ORDER THEREON**

CMC Date: November 7, 2008

CMC Time: 1:30 p.m.

**CMC Place: Ctrm. 2, 17th Floor
San Francisco**

18 Plaintiffs Fresh Start Advantage, Inc. and Fresh Kist Produce, LLC respectfully request
19 that the Case Management Conference and the associated dates be continued for an additional 45
20 to 60 days. Although Plaintiffs had intended to file a Motion for Default Judgment, Defendants
21 retained new counsel who requested that Plaintiffs stipulate to the lifting of the default that was
22 previously filed. Plaintiffs have agreed to do so, and Plaintiffs' counsel will forward the
stipulation to Defendants' new counsel today for signature. It will be filed shortly.

1 Although Plaintiffs counsel and Defendants' new attorney have discussed settlement of
2 this action, it does not appear that any agreement will be reached at this time. Consequently,
3 Plaintiffs respectfully request that the Case Management Conference be continued for 45 to 60
4 days to allow Defendants time to respond to the Complaint and the parties to discuss and file a
5 Case Management Conference Statement.

6 I declare under penalty of perjury under the laws of the United States that the foregoing is
7 true and correct.

8 Date: November 3, 2008

RYNN & JANOWSKY, LLP

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10 By: /s/ Marion I. Quesenbery
11 MARION I. QUESENBERY
Attorneys for Plaintiffs

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13 **IT IS SO ORDERED.** The Case Management Conference is continued to
14 January 9, 2009 ~~2008~~, at 1:30 p.m., in Courtroom 2, 17th Floor, San Francisco.

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16 Date: November 6, 2008


U.S. DISTRICT COURT JUDGE

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