

1 Marion I. Quesenbery, Cal. SBN 072308
RYNN & JANOWSKY, LLP
2 P.O. Box 20799
Oakland, CA 94620
3 Telephone: (510) 705-8894
Facsimile: (510) 705-8737
4 E-mail: marion@rjlaw.com

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

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

CMC Date: January 9, 2009

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 and Defendants John
19 D. Tamagni and Robert Elliott respectfully request that the Case Management Conference and
20 the associated dates be continued for an additional 90 days. Defendants just filed their Answer
21 to the Complaint on December 9, 2008, after they retained new counsel. Plaintiffs' counsel and
22 Defendants' new attorney have discussed settlement of this action on several occasions, but are
still unable to resolve the dispute. They have also discussed the appropriate ADR process and

1 have agreed on mediation. They expect to file with the Court a Stipulation to mediation very
2 shortly.

3 In addition, on Friday, January 2, 2009, counsel for Defendants learned from his
4 physician (Dr. Wendell Yee; 831-424-2866) that he would have to undergo an angiogram on
5 Thursday, January 8, 2009, which could turn into an angioplasty, depending upon what the
6 angiogram uncovers. Consequently, he will be unable to attend the Case Management
7 Conference currently scheduled for January 9, 2009.

8 In sum, Plaintiffs and Defendants respectfully request that the Case Management
9 Conference be continued for 90 days to allow Defendants and Plaintiffs to mediate this dispute,
10 and – if necessary – to draft a discovery plan and to complete initial disclosures.

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

13 Date: January 5, 2009

RYNN & JANOWSKY, LLP

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By: /s/ Marion I. Quesenbery
MARION I. QUESENBERRY
Attorneys for Plaintiffs

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16 Date: January 5, 2009

LAW OFFICE OF CLYDE C. PEARCE

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By: _____
CLYDE C. PEARCE
Attorney for Defendants

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By: /s/ Marion I. Quesenbery
MARION I. QUESENBERRY
Attorneys for Plaintiffs

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16 Date: January 5, 2009

LAW OFFICE OF CLYDE C. PEARCE

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By: 
CLYDE C. PEARCE
Attorney for Defendants

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IT IS SO ORDERED. The Case Management Conference is continued to
April 24, 2009, at 1:30 p.m., in Courtroom 2, 17th Floor, San Francisco.

Date: January 5, 2009



U.S. DISTRICT COURT JUDGE