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**\*E-FILED - 1/27/11\***

6 Attorneys for Defendants  
 Paul's Pak, Inc., Salvador Paul Tarantino;  
 7 Paul S. Tarantino, and John L. Simmons, Only,  
 and for Counterclaimant Paul's Pak, Inc.

**UNITED STATES DISTRICT COURT**

**NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION**

10 ANDREW SMITH COMPANY, a general )  
 11 partnership, )

**CASE NO. C-08-04802-RMW**

12 Plaintiff, )

**STIPULATION TO CONTINUE STATUS  
CONFERENCE AND ORDER**

13 v. )

14 PAUL'S PAK, INC.; PREMIUM FRESH FARMS, )  
 LLC; PDP & ASSOCIATES, LLC; AG )  
 15 HARVESTING & TECHNOLOGIES, LLC; CV )  
 INVESTMENTS, LLC; ESV INVESTMENTS, )  
 16 LLC; SALVADOR PAUL TARANTINO; PAUL S. )  
 TARANTINO; JOHN L. SIMMONS; EMMITT L. )  
 17 PFOST; JACK PARSON; STEVEN A. CINELLI; )  
 JOHN D. TAMAGNI; RICHARD TAMAGNI; )  
 18 STEVE CHURCH; THOMAS CHURCH; DAVID )  
 GILL; CHURCH BROTHERS, LLC; and TRUE )  
 19 LEAF FARMS, LLC, )

20 Defendants. )

21 \_\_\_\_\_ )  
 22 **AND RELATED MATTERS** )

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1 TO THE COURT AND ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 IT IS HEREBY STIPULATED by and between Plaintiff, ANDREW SMITH COMPANY  
3 ("Plaintiff" or "Andrew Smith") and Defendants, PAUL'S PAK, INC. ("Paul's Pak"), SALVADOR PAUL  
4 TARANTINO ("Sal Tarantino"), PREMIUM FRESH FARMS, LLC ("Premium Fresh"); AG  
5 HARVESTING & TECHNOLOGIES, LLC ("Ag Harvesting"); ESV INVESTMENTS, LLC ("ESV");  
6 EMMITT L. PFOST ("Pfof"); JOHN D. TAMAGNI ("Tamagni"); ROBERT ELLIOTT ("Elliott");  
7 JAMES S. TAMAGNI; RICHARD TAMAGNI; STEVE CHURCH; THOMAS CHURCH; DAVID GILL;  
8 CHURCH BROTHERS, LLC ("Church Brothers"); and TRUE LEAF FARMS, LLC ("True Leaf")  
9 (collectively "Defendants"), and their counsel of record that the status conference in the above captioned  
10 action be continued and in support thereof state as follows:

11 1. On November 18, 2010, the Defendant Sal Tarantino filed for bankruptcy protection in the  
12 Bankruptcy Court for the Northern District of California, Case # 10-14430 triggering an automatic stay as  
13 to that Defendant and any assets of the Defendant's bankruptcy estate. The filing of this bankruptcy,  
14 however, was not discovered by counsel and the other parties until Monday, November 29, 2010;

15 2. That the Statement of Financial Affairs, filed by Sal Tarantino along with his bankruptcy  
16 petition, list Paul's Pak Inc., as an asset and Sal Tarantino as the sole owner and shareholder of Paul's Pak,  
17 Inc.;

18 3. On November 22, 2010, the Defendant Premium Fresh Farms, LLC filed for bankruptcy  
19 protection in the Bankruptcy Court for the Northern District of California, Case # 10-62036 triggering an  
20 automatic stay as to that Defendant and any assets of the Defendant's bankruptcy estate;

21 4. That the Bankruptcy filings of Premium Fresh list certain account receivables as the only  
22 asset of the Premium Bankruptcy estate;

23 5. That bankruptcy counsel for Sal Tarantino filed a Motion for Abandonment of Sal Tarantino  
24 shares in Paul's, which motion has been opposed by Church Brothers and True Leaf. Said motion was  
25 initially heard in the Bankruptcy Court for the Northern District of California on January 21, 2011 and a  
26 continued hearing is scheduled for February 4, 2011;

27 6. That the parties have met and conferred and agree that resolution of these bankruptcy  
28 matters and the Motion for Abandonment must occur in order to move forward with the remaining parties

1 and ensure compliance with the automatic stay provisions of 11 U.S.C. §362(a);

2 7. Based on the foregoing, the parties stipulate that the status conference currently scheduled  
3 to be held on January 28, 2011, at 10:30 a.m. be continued to March 25, 2011, at 10:30 a.m., at which time  
4 the parties will advise the Court of the status of the above mentioned bankruptcy matters and for further  
5 trial setting. The earlier entered stay shall remain in effect pending further order of the Court.

6 **SO STIPULATED:**

7 Dated: January 26, 2011

KAHN, SOARES & CONWAY, LLP

8  
9 By: \_\_\_\_\_ /s/  
10 Jan L. Kahn  
11 Ann M. Grottveit  
12 Attorneys for Plaintiff and Counterdefendant  
13 ANDREW SMITH COMPANY

14 Dated: January 26, 2011

ANASTASSIOU & ASSOCIATES

15 By: \_\_\_\_\_ /s/  
16 Effie F. Anastassiou  
17 Attorneys for Defendants PAUL'S PAK, INC.,  
18 SALVADOR PAUL TARANTINO, and  
19 Counterclaimant, PAUL'S PAK, INC.

20 Dated: January 26, 2011

SMITHERS LAW FIRM

21 By: \_\_\_\_\_ /s/  
22 Edward W. Smithers

23 And

24 Stephen McCarron  
25 MCCARRON & DIESS  
26 4900 Massachusetts Avenue, NW  
27 Washington, DC 20016

28 Attorneys for Defendants,  
CHURCH BROTHERS, LLC, TRUE LEAF  
FARMS, LLC, THOMAS CHURCH, STEVE  
CHURCH and DAVID GILL

1 Dated: January 26, 2011

LAW OFFICES OF CLYDE PEARCE

2  
3 By: \_\_\_\_\_ /s/  
4 Clyde Pearce  
5 Attorneys for Defendants,  
6 AG HARVESTING & TECHNOLOGIES, LLC,  
7 JOHN D. TAMAGNI, ROBERT ELLIOTT,  
8 JAMES TAMAGNI, RICHARD TAMAGNI,  
9 PREMIUM FRESH FARMS, LLC and  
10 ESV INVESTMENTS

11 **ORDER**

12 Pursuant to stipulation between the parties, and good cause appearing therefore,

13 **IT IS HEREBY ORDERED**, that this action is stayed, that the status conference currently  
14 scheduled to be held on January 28, 2011, at 10:30 a.m. be continued to March 25, 2011, at 10:30 a.m., at  
15 which time the parties will advise the Court of the status of the above mentioned bankruptcy matters and  
16 for further trial setting. The earlier entered stay shall remain in effect pending further order of the Court.

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20 DATED: January 27, 2011

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