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10 Attorneys for Defendant  
11 STARBUCKS CORPORATION

12 **UNITED STATES DISTRICT COURT**

13 **NORTHERN DISTRICT OF CALIFORNIA – SAN JOSE**

14 McCARTHY GILROY, LLC, a  
15 California limited liability company,

16 Plaintiff,

17 vs.

18 STARBUCKS CORPORATION, a  
19 Washington corporation, and DOES 1  
20 through 20, inclusive,

21 Defendants.

Case No. C08 05411 RMW

Assigned to:  
The Honorable Ronald M. Whyte

**STIPULATION AND [XXXXXXXXXX]  
ORDER TO CONTINUE TRIAL  
DATE AND RELATED DEADLINES  
FOR SIXTY DAYS SINCE THE  
CASE IS NOT YET AT ISSUE**

1 Pursuant to Local Rule 6-2, plaintiff McCarthy Gilroy, LLC and defendant  
2 Starbucks Corporation (collectively, the "Parties") submit the following stipulation  
3 and proposed order:

4 WHEREAS this Court has not yet ruled on Starbucks Corporation's Motion to  
5 Dismiss the Complaint Pursuant to Federal Rule of Civil Procedure 12(b)(6), and  
6 thus this case is not yet at issue; because the case is not yet at issue, the Parties are  
7 not sure of the extent of permissible discovery without knowing whether all causes of  
8 action remain for summary judgment and trial;

9 WHEREAS the Parties currently are engaging in settlement discussions;

10 WHEREAS the Parties agree, to allow time for the case to come to issue and  
11 for settlement discussions to progress, to a 60-day continuance of the trial date and all  
12 related dates, except that the pre-trial conference date shall be extended only 53 days;

13 WHEREAS no previous time modifications have been made in this case;

14 IT IS HEREBY STIPULATED by and between the Parties, by and through  
15 their respective attorneys of record, as follows:

- 16 1. The trial date in this matter shall be continued from February 22, 2010 to  
17 xxxxxxxxxxxxxxxx April 19, 2010
- 18 2. The pretrial conference in this matter shall be continued from February  
19 4, 2010 to xxxxxxxxxxxxxxxx April 1, 2010
- 20 3. The Joint Pretrial Statement deadline shall be continued from January  
21 20, 2010 to xxxxxxxxxxxxxxxx March 26, 2010
- 22 4. The Hearing on Dispositive Motions shall be continued from December  
23 4, 2009 to xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx February 5, 2010 at 9:00 a.m.
- 24 5. The discovery cutoff shall be continued from October 19, 2009 to  
25 December 18, 2009;
- 26 6. The expert discovery cutoff shall be continued from November 20, 2009  
27 to January 19, 2010;

- 1           7.     The deadline for disclosure of experts shall be continued from October  
2                     19, 2009 to December 18, 2009; and,  
3           8.     This Court's Discovery limitations shall remain in effect, except that no  
4                     additional interrogatories or requests for admissions shall be propounded  
5                     absent an order from this Court or stipulation of the Parties.  
6

7 Dated: October 5, 2009

BERLINER COHEN

8  
9                     s/John F. Domingue

10                    John F. Domingue  
11                    Attorneys for Plaintiff  
12                    McCarthy Gilroy, LLC

12 Dated: October 5, 2009


WILLENKEN WILSON LOH & LIEB, LLP

13  
14                    s/Eileen M. Ahern

15                    Eileen M. Ahern  
16                    Attorneys for Defendant  
17                    Starbucks Corporation

18 **IT IS SO ORDERED.**

19 Dated: 10/14/09

20                      
21                    \_\_\_\_\_  
22                    Honorable Ronald M. Whyte  
23                    United States District Judge  
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