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14 Attorneys for Plaintiffs and the Putative Class

15 **UNITED STATES DISTRICT COURT**
 16 **NORTHERN DISTRICT OF CALIFORNIA**
SAN JOSE DIVISION

17 GUIFU LI, MENG WANG, FANG DAI,
 18 LIN CUI, and ZHONG YU on behalf of
 themselves and all others similarly situated,

19 Plaintiffs,

20 vs.

21 A PERFECT DAY FRANCHISE, INC., a
 22 California corporation; *et al.*,

23 Defendants.

Case No. CV 10-01189 LHK (PVT)

CLASS ACTION

**STIPULATION AND [~~PROPOSED~~] ORDER
 AMENDING BRIEFING SCHEDULE ON
 DEFENDANTS' MOTION TO DISMISS**

Courtroom: 4, 5th Floor

Judge: Hon. Lucy H. Koh

Complaint Filed: March 22, 2010

1 Whereas on September 3, 2010, Defendants Re-Noticed their Motion to Dismiss Proceedings
2 and Compel Arbitration before this Court, setting the hearing for December, 2, 2010. (Dkt. 73.)

3 Whereas the briefing schedule under the local rules for a December 2, 2010 hearing makes
4 opposition papers due November 10, 2010 and reply papers due November 18, 2010.

5 Whereas the parties have not previously sought an extension of the briefing schedule.

6 Whereas the resolution of the motion to compel arbitration may be contingent on numerous
7 factual disputes on which Plaintiffs have sought discovery.

8 Whereas on August 6, 2010, Plaintiffs served Plaintiff Guifu Li's First Request for
9 Production of Documents and to Permit Inspection ("RPD") upon Defendant A Perfect Day
10 Franchise Inc.

11 Whereas on September 10, 2010, Defendant A Perfect Day Franchise Inc. served its
12 responses.

13 Whereas on September 24, 2010, Defendant A Perfect Day Franchise Inc. produced hard
14 copies of 120 Independent Contractor Agreements.

15 Whereas the parties have diligently engaged in discovery efforts, including ongoing meet and
16 confer to informally resolve disputes.

17 Whereas after protracted meet and confer efforts regarding scheduling, Plaintiffs began the
18 deposition of June Ma, Perfect Day's Human Resources Manager on October 12, 2010 and Jade Li,
19 the Manager of Perfect Day's Fremont branch on October 20, 2010 and have noticed dates for the
20 completion of these. Defendants are unavailable on the noticed dates and have requested that these
21 depositions occur on November 5th and 8th respectively.

22 Whereas the parties reached an impasse and on October 29, 2010 Plaintiffs filed a motion to
23 compel documents and a server inspection. (Dkt. 112-14.)

24 Whereas on November 1, 2010, Honorable Patricia Trumbull issued an order on Plaintiffs'
25 motion to compel that may resolve the ongoing discovery disputes. However, to-date, because of the
26 discovery disputes and the recent schedules of counsel, documents that may be at issue have not yet
27 been produced and an inspection of defendants' computer server has not yet been conducted. (Dkt.
28 119.)

1 Whereas Defendants counsel was unavailable to produce documents, or defend depositions
2 during the week of November 25, 2010 due to a jury trial. (Dkt. 103.)

3 Whereas Defendants' human resources manager and designated person most knowledge was
4 in a car accident on October 31, 2010. As a result of the car accident, he is unavailable for his
5 deposition until at least November 8, 2010.

6 As a result of the unavailability of Defendants' counsel and Defendants' employee, the
7 parties were not able to schedule depositions or conduct a server inspection for the week of October
8 25 or November 2nd. The earliest dates these discovery events can occur are November 8, 2010.

9 Whereas Defendants' counsel has not yet been able to take the depositions of any of the
10 named Plaintiffs in this case due to counsel's recent trial schedule. Whereas the depositions of
11 Plaintiffs are set to be completed the week of November 7th.

12 Whereas the parties agree to act in good faith and complete the outstanding depositions,
13 server inspection, and to further meet and confer regarding production of documents. Whereas the
14 parties agree that good cause exists to modify the briefing schedule.

15 Accordingly, the parties propose the following briefing schedule:

- 16 • Deadline to file opposition papers December 8, 2010
- 17 • Deadline to file reply papers December 16, 2010
- 18 • Hearing January 27, 2011 at 1:30 p.m.

19
20 Dated: November 3, 2010

LAW OFFICES OF ADAM WANG

21 THE STURDEVANT LAW FIRM
22 A Professional Corporation

23 DUCKWORTH PETERS LEBOWITZ OLIVIER LLP

24 /s/ Whitney Huston

25 Whitney Huston
26 Attorneys for Plaintiffs and the Putative Class
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28

1 Dated: November 3, 2010

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3
4
5 /s/ Lee Sheldon
Attorneys for Defendants, A Perfect Day,
6 Minjian Hand Healing Institute, Jin Qui, and
Tailiang Li

7
8 Dated: November 3, 2010

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11
12 /s/ Michael Lane
Attorney for Defendant, Tom Schriener

13
14 **ATTESTATION UNDER GENERAL ORDER 45**

15 I, Whitney Huston, attest that the concurrence in the filing of the document has been obtained
16 from each of the other signatories, which shall serve in lieu of their respective signatures.

17
18 /s/ Whitney Huston
Whitney Huston

19
20
21 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

22
23 DATED: November 5, 2010

24 By: 
HONORABLE LUCY H. KOH
United States District Judge