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 10 and Counterdefendants.

11 (ADDITIONAL PLAINTIFFS/COUNTERDEFENDANTS COUNSEL ON LAST PAGE)

12 **UNITED STATES DISTRICT COURT**
 13 **NORTHERN DISTRICT OF CALIFORNIA - SAN JOSE DIVISION**

14 GUIFU LI, MENG YANG, FANG DAI,
 LIN CUI, and ZHONG YU on behalf of
 themselves and all others similarly situated,
 15
 16 Plaintiffs,
 17 vs.
 18 A PERFECT DAY FRANCHISE, INC., a
 California corporation, *et al.*,
 19 Defendants.

Case No. CV 10-01189 LHK (PSG)

CLASS ACTION

**STIPULATION AND [~~PROPOSED~~] MODIFIED
 ORDER TO AMEND BRIEFING SCHEDULE ON
 PLAINTIFFS' MOTION FOR CLASS
 CERTIFICATION**

20 MINJIAN HAND HEALING INSTITUTE,
 21 INC., a California corporation,
 22 Counterclaimant,
 23 vs.
 24 FANG DAI, and individual; ZHONG YU, an
 individual; LIN CUI, and individual; and
 25 DOES 11-30, inclusive,
 26 Counterdefendants.

Courtroom: 4, 5th Floor
 Judge: Hon. Lucy H. Koh

Complaint Filed: March 22, 2010

1 All parties agree to the following joint stipulation and respectfully request that the Court
2 modify the class certification briefing schedule as set forth below and in the proposed order.

3 1. The Court issued its Case Management Order (“CMC Order”) on February 25, 2011.
4 (Dkt. 155.). The CMC Order set a briefing schedule on the Motion for Class Certification as
5 follows:

- 6 • Deadline to file Class Certification Motion: June 9, 2011
- 7 • Opposition due: June 30, 2011
- 8 • Reply Due: July 14, 2011
- 9 • Hearing: July 28, 2011 at 1:30 pm

10 2. Defendants A Perfect Day Franchise, Inc., Minjian Hand Healing Institute, Inc.,
11 Tailiang Li, and Jin Qiu filed an appeal to the United States Court of Appeals for the Ninth Circuit
12 from this Court’s Order Denying Defendants’ Request to Dismiss Case and to Compel Arbitration.
13 (Dkt. 151.) By request of Defendants, the briefing schedule if the Ninth Circuit Appeal case (No.
14 11-15376) has been extended and opening briefs are due on June 8, 20011 and answering briefs are
15 due on July 8, 20011.

16 3. The parties have briefed Defendants’ Motion for a Stay Pending Appeal and are
17 awaiting a decision from this Court. (Dkt. 161-162.)

18 4. On April 27, 2011, Plaintiffs filed their Second Amended Complaint (“SAC”).
19 Defendants A Perfect Day Franchise, Inc., Minjian Hand Healing Institute, Inc., Tailiang Li, Jin Qiu,
20 and Tom Schriener have filed Answers to the SAC. (Dkt. 183-186, 190.) Newly added Defendants
21 Jun Ma, Chuanyu Li, Huan Zhou have not yet filed Answers. Plaintiffs have attempted service on
22 Defendant Chuanyu Li, but as of this date, have been unsuccessful. Plaintiffs are presently unable to
23 serve Defendants Jun Ma, manager of A Perfect Day Franchise, Inc., and Huan Zhou, owner of A
24 Perfect Day Franchise, Inc. because they are presently out of the country in China with no definite
25 date of return, as per counsel for A Perfect Day Franchise, Inc.

26 5. In addition, Defendant Minjian Hand Healing Institute, Inc. filed a counterclaim
27 against Plaintiffs Lin Cui, Fang Dai, and Zhong Yu. (Dkt. 182.) A response to that counterclaim is
28

1 due on May 17, 2011.

2 6. The parties have been actively engaged in discovery. Plaintiffs have served
3 document requests, requests for admissions and interrogatory requests on Defendants. Defendants
4 have provided responses to those requests. Plaintiffs believe many of the responses are inadequate
5 and are in the process of meeting and conferring in accordance with the federal rules.

6 7. In addition, Plaintiffs served deposition notices on Defendants, but have only been
7 able to depose one witness due to the unavailability of Defendants' witnesses. Specifically,
8 Plaintiffs served a deposition notice under Rule 30(b)(6) to Minjian Hand Healing Institute, Inc. The
9 deposition of Minjian Hand Healing Institute went forward but has not been completed due to the
10 fact that the witness was instructed not to answer several questions about several different subject
11 matters. Counsel for Minjian has indicated that they will not produce Minjian for deposition on
12 these subject matters absent an order from the Court.

13 8. Plaintiffs served a deposition notice under Rule 30(b)(6) to A Perfect Day Franchise,
14 Inc. Counsel for A Perfect Day Franchise, Inc. has identified Jun Ma and Huan Zhou as the persons
15 most knowledgeable about the topics in the deposition notice. Both Jun Ma and Huan Zhou,
16 however, are in China with no definite return date. Therefore, Plaintiffs cannot move forward with
17 these depositions until Jun Ma and Huan Zhou return.

18 9. Plaintiffs originally scheduled defendant Tom Schriener's deposition for April 26,
19 2011. On April 19th, counsel for Mr. Schriener informed counsel for Plaintiffs that Mr. Schriener
20 would not appear for his deposition. Counsel for Plaintiffs have renoticed Mr. Schriener's deposition
21 for May 12, 2011.

22 10. As a result of the above, Plaintiffs have been unable to complete the discovery
23 necessary to file their motion for class certification. Accordingly, the parties agree to the following
24 modified briefing schedule on the Motion for Class Certification:

- 25 • Deadline to file Class Certification Motion: July 28, 2011
- 26 • Opposition due: August 17, 2011
- 27 • Reply Due: September 1, 2011

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• Hearing:

September 15, 2011 at 1:30 pm

Dated: May 17, 2011

LAW OFFICES OF ADAM WANG
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A Professional Corporation
DUCKWORTH PETERS LEBOWITZ OLIVIER LLP

By: /s/ Whitney Huston
Whitney Huston
Attorneys for Plaintiffs and the Putative Plaintiff
Class, and Counterdefendants

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ATTESTATION UNDER GENERAL ORDER 45

I, Whitney Huston, am the ECF user whose ID and password are being used to file this STIPULATION AND [PROPOSED] ORDER TO AMEND BRIEFING SCHEDULE ON PLAINTIFFS' MOTION FOR CLASS CERTIFICATION. In compliance with General Order 45, I hereby attest that Richard Wahng, counsel for Defendants A Perfect Day Franchise, Inc., Minjian Hand Healing Institute, Inc., Jin Qui, Tailiang Li, and Tom Schriener has concurred in this filing.

DATE: May 10, 2011

/s/ Whitney Huston
Whitney Huston

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PURSUANT TO STIPULATION, IT IS SO ORDERED.

The briefing schedule on the Motion for Class Certification has been extended as follows:

- Deadline to file Class Certification Motion: July 28, 2011
- Opposition due: August 17, 2011
- Reply Due: September 1, 2011
- Hearing: September 15, 2011 at 1:30 pm

The Deadlines for Fact Discovery Cutoff, Expert Discovery, Dispositive Motions, Pretrial Conference, and Trial remain as set.

DATED: __May 17, 2011__

By: 
HONORABLE LUCY H. KOH
United States District Judge