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5 Attorneys for Defendants, The Posh Bakery, Inc., Jeffrey Ottoveggio, and Cheryl Lee

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 8 **UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
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11 JORGE ALBERTO CAMPOS, ENEYDA  
 12 MENDOZA, ELISABETH VASQUEZ,  
 FRANCISCO HERNANDEZ, and  
 13 RICARDO LOPEZ,

14 Plaintiffs,

15 vs.

16 POSH BAKERY HOLDING COMPANY,  
 17 INC. dba POSH BAKERY, INC.,  
 JEFFREY OTTOVEGGIO, CHERYL  
 18 LEE, and DOES 1 through 10,

19 Defendants.

No. CV 10-02873 PVT

AMENDED  
**STIPULATION TO CONTINUE  
 INITIAL DISCLOSURES AND  
 INITIAL CASE MANAGEMENT  
 CONFERENCE**

**ORDER THEREON** (XXXXXXXXXXXX)

21 Plaintiffs Jorge Alberto Campos, Eneyda Mendoza, Elisabeth Vasquez, Francisco  
 22 Hernandez, and Ricardo Lopez, and Defendants The Posh Bakery, Inc., sued incorrectly herein as  
 23 “Posh Bakery Holding Company, Inc.”, Jeffrey Ottoveggio, and Cheryl Lee, by and through their  
 24 respective attorneys of record, hereby submit the following Stipulation requesting that the dates for  
 25 Initial Disclosures and the Initial Case Management Conference be continued, as follows:

- 26 1. Initial disclosures in this action are due September 14, 2010 and the Initial Case  
 27 Management Conference is scheduled for September 21, 2010 at 2:00 p.m. in Courtroom No. 5.  
 28 2. This is a wage and hour action on behalf of Plaintiffs alleging a failure to properly

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**STIPULATION TO CONTINUE INITIAL DISCLOSURES AND INITIAL CMC**  
**ORDER THEREON (proposed)**

1 pay overtime wages and for recovery of related penalties and fees.

2 3. The parties through counsel have met and conferred regarding the preliminary  
3 issues on this case, and agree that in order to meaningfully investigate and evaluate the merits and  
4 defenses in this action it will be necessary to review Plaintiffs' payroll records, time cards,  
5 personnel files and other employment records.

6 4. However, Defendants do not currently have possession, custody or control of  
7 Plaintiffs' payroll records, time cards, personnel files and other employment records, and are  
8 therefore unable to make an initial disclosure thereof, because these documents have been seized  
9 by the Santa Clara County District Attorney in connection with an on-going criminal  
10 investigation.

11 5. Both parties believe that the initial Case Management Conference is premature  
12 because they will not be able to meaningfully investigate and evaluate the merits and defenses in  
13 this action until they have had access to Plaintiffs' payroll records, time cards, personnel files and  
14 other employment records which are currently in the possession of the District Attorney.

15 6. The attorneys who represent the Posh Bakery, Inc. and Cheryl Lee separately with  
16 regard to said criminal investigation, Michael Stepanian and John Williams, are currently  
17 scheduled to meet with the District Attorney regarding the criminal investigation on September  
18 24, 2010, at which time Mr. Stepanian will request that the District Attorney release or allow  
19 access to said records for purposes of the instant litigation. Mr. Stepanian advises, however, that  
20 the decision whether to release or allow access to said documents remains with the District  
21 Attorney.

22 7. Therefore, the parties respectfully request that the Court extend the time for making  
23 initial disclosures for 90 days and reschedule the initial Case Management Conference to a date  
24 following the extended date for initial disclosures in order to allow time to obtain access to the  
25 records from the District Attorney.

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Dated: September 14, 2010.

DAVENPORT GERSTNER & McCLURE

/s/ Stephen Thomas Davenport, Jr.

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Stephen Thomas Davenport, Jr.  
Attorneys for Defendants, The Posh Bakery, Inc.,  
Jeffrey Ottoveggio, and Cheryl Lee

Dated: September 14, 2010

/s/ Adam Pedersen

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ADAM PEDERSEN,  
Attorneys for Plaintiffs

Dated: September 14, 2010

/s/ Adam Wang

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ADAM WANG,  
Attorneys for Plaintiffs

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[PROPOSED] ORDER

GOOD CAUSE APPEARING, pursuant to the parties' stipulation, the Court orders as follows:

1. Initial disclosures shall be due on December 16, 2010, 2010.
2. The initial Case Management Conference shall be continued from September 21, 2010 to January 11, 2011 (xxxxxxx) at 2:00 p.m.

Dated: September 16, 2010.

  
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United States Magistrate Judge