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13 UNITED STATES DISTRICT COURT

14 NORTHERN DISTRICT OF CALIFORNIA

15 DONNA L. WEISS, Individually and on
16 Behalf of All Others Similarly Situated,

17 Plaintiff,

18 v.

19 ANNIE'S, INC., JOHN M. FORAKER,
20 KELLY J. KENNEDY, and ZAHIR M.
21 IBRAHIM,

22 Defendants.

Case No. 5:14-cv-03001-BLF

CLASS ACTION

**STIPULATION AND [PROPOSED]
ORDER TO CONTINUE THE INITIAL
CASE MANAGEMENT CONFERENCE,
RESET RELATED DEADLINES AND
EXTEND DEFENDANT'S TIME TO
ANSWER OR OTHERWISE RESPOND
TO THE COMPLAINT**

[CIVIL L.R. 16-2, 7-12]

Current CMC Date: November 13, 2014

Time: 1:30 PM

Judge: Hon. Beth L. Freeman

1 Pursuant to Civil Local Rules 16-2 and 7-12, Plaintiff Donna L. Weiss (“Weiss” or
2 “Plaintiff”) and defendants Annie’s, Inc., John M. Foraker, Kelly J. Kennedy, and Zahir M.
3 Ibrahim (collectively, “Defendants”), hereby agree and stipulate that good cause exists to request
4 an order from the Court extending Defendants’ time to respond to the complaint and
5 rescheduling the Initial Case Management Conferences currently set for November 13, 2014,
6 pursuant to this Court’s July 1, 2014 Order Setting Initial Case Management Conference and
7 ADR Deadlines (Dkt. #7), and to adjust accordingly the related deadlines set forth therein.
8

9 **RECITALS**

10 WHEREAS, on June 11, 2014, Steven Taormina filed a similar putative class action
11 complaint, captioned *Taormina v. Annie’s, Inc. et al.*, Case No. 14-cv-02711-BLF (the
12 “*Taormina Action*”), asserting the same or substantially similar claims against Defendants;
13

14 WHEREAS, on June 30, 2014, Plaintiff Weiss filed a putative class action complaint,
15 captioned *Weiss v. Annie’s, Inc. et al.*, Case No. 14-cv-03001-BLF (the “*Weiss Action*”), against
16 Defendants for violations of Sections 10(b) and 20(a) of the Securities Exchange Act of 1934;
17

18 WHEREAS, on August 1, 2014, the parties filed an administrative motion to relate the
19 *Taormina Action* and the *Weiss Action* pursuant to Northern District of California Civil Local
20 Rule 3-12(a) because these actions involve substantially the same parties and events and are class
21 actions brought against the same Defendants under the federal securities laws;

22 WHEREAS, under the Private Securities Litigation Reform Act of 1995 (“PSLRA”),
23 when a putative class action alleging securities fraud is filed, a process must be followed
24 whereby the plaintiff gives notice to the putative class, there is a sixty (60) day deadline for
25 motion(s) for appointment of lead plaintiff to be filed, and the Court appoints lead plaintiff(s)
26 and approves the selection of lead counsel. 15 U.S.C. § 78u-4(a);
27
28

1 WHEREAS, on August 11, 2014, three purported shareholders filed motions to be
2 appointed lead plaintiff and to consolidate the actions;

3 WHEREAS, Plaintiff Weiss anticipates that the actions will be consolidated and that the
4 lead plaintiff will accordingly need to file a consolidated amended complaint¹;

5 WHEREAS, the parties believe that, in order to avoid the needless waste of the Court's
6 and the parties' resources, it would be prudent to defer the initial case management conference
7 and related deadlines until a lead plaintiff has been appointed, the lead plaintiff's selection of
8 lead counsel has been approved, the lead plaintiff has filed a consolidated amended complaint,
9 Defendants have had the opportunity to file any motion to dismiss, and the Court has ruled on
10 Defendants' anticipated motion to dismiss; and

11
12 NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by the parties
13 hereto, through their undersigned counsel, as follows:
14

15 1. Defendants need not answer, move or otherwise respond to the Complaint in this
16 action or any related, subsequently filed actions transferred to this Court until a date to be set
17 following the appointment of a lead plaintiff pursuant to 15 U.S.C. §78u-4(a)(3)(B) and the filing
18 by such lead plaintiff of a consolidated amended complaint.
19

20 2. Within forty-five (45) days from the date that the Court appoints lead plaintiff(s)
21 and lead counsel pursuant to 15 U.S.C. § 78u-4(a)(3)(B), such lead plaintiff(s) shall file an
22 amended consolidated complaint ("Amended Complaint").
23
24
25

26 ¹ The administrative motion to relate also included a derivative action entitled *Anna H. Goodman*
27 *v. John M. Foraker, et al.*, Case No. 14-cv-02760-NC (the "*Goodman Derivative Action*"). The
28 parties do not anticipate that the "*Goodman Derivative Action*" will be consolidated with the
"*Taormina Action*" or the "*Weiss Action*."

1 3. Within forty-five (45) days from the date that an Amended Complaint is filed by
2 the Court-appointed lead plaintiff(s), Defendants shall file a motion to dismiss, answer, or other
3 response to such Amended Complaint.

4 4. In the event the Defendants file a motion to dismiss the Amended Complaint, lead
5 plaintiff(s) shall have 45 days from filing of such motion in which to file papers in opposition to
6 the motion. Defendants shall have 30 days from the filing of lead plaintiff's opposition papers in
7 which to file reply papers.

8 5. The case management conference presently scheduled in the *Weiss* Action for
9 November 13, 2014, along with any associated deadlines under the Federal Rules of Civil
10 Procedure and Local Rules (including ADR deadlines), shall be vacated, and reset to a date after
11 the Court rules on Defendants' anticipated motion to dismiss the Amended Complaint.
12

13 6. This Stipulation is entered into without prejudice to any party seeking any interim
14 relief.
15

16 7. Nothing in this Stipulation shall be construed as a waiver of any of Defendants'
17 rights or positions in law or equity, or as a waiver of any defenses that Defendants would
18 otherwise have, including, without limitation, jurisdictional defenses.
19

20 8. The Parties have not sought any other extensions of time in this action.

21 9. The Parties do not seek to reset these dates for the purpose of delay, and the
22 proposed new dates will not have an effect on any pre-trial and trial dates as the Court has yet to
23 schedule these dates.
24

25 WHEREFORE, the Parties respectfully request that this Court issue an order granting the
26 parties' request to reset the Initial Case Management Conference and related deadlines as set
27 forth in the following [Proposed] Order.
28

1 **IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.**

2 DATED: August 18, 2014

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Counsel for Plaintiff Donna L. Weiss

25 DATED: August 18, 2014

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* * *

ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: _____



Hon. Beth L. Freeman
United States District Court Judge

**PROOF OF SERVICE VIA ELECTRONIC POSTING PURSUANT TO NORTHERN
DISTRICT OF CALIFORNIA LOCAL RULES AND LOCAL CIVIL RULE 5-1**

I, the undersigned, say:

I am a citizen of the United States and am over the age of 18 and not a party to the within action. My business address is 1925 Century Park East, Suite 2100, Los Angeles, California 90067.

On August 18, 2014, I served the following document:

**STIPULATION AND [PROPOSED] ORDER TO CONTINUE THE INITIAL CASE
MANAGEMENT CONFERENCE, RESET RELATED DEADLINES , AND EXTEND
DEFENDANT'S TIME TO ANSWER OR OTHERWISE RESPOND TO THE
COMPLAINT**

By posting the document to the ECF Website of the United States District Court for the Northern District of California, for receipt electronically by the parties as listed on the attached Court's ECF Service List.

And on any non-ECF registered parties:

By U.S. Mail: By placing true and correct copies thereof in individual sealed envelope: with postage thereon fully prepaid, which I deposited with my employer for collection and mailing by the United States Postal Service. I am readily familiar with my employer's practice for the collection and processing of correspondence or mailing with the United States Postal Service. In the ordinary course of business, this correspondence would be deposited by my employer with the United States Postal Service that same day.

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on August 18, 2014, at Los Angeles, California.

s/ Robert V. Prongay
Robert V. Prongay

Mailing Information for a Case 5:14-cv-03001-BLF Donna L. Weiss v. Annie's, Inc. et al

Electronic Mail Notice List

The following are those who are currently on the list to receive e-mail notices for this case.

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Manual Notice List

The following is the list of attorneys who are **not** on the list to receive e-mail notices for this case (who therefore require manual noticing). You may wish to use your mouse to select and copy this list into your word processing program in order to create notices or labels for these recipients.

- (No manual recipients)