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Attorneys for Defendants Domtar Corporation and Polsinelli PC

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA – SAN JOSE DIVISION

17 KELLY BREZOCZKY, an individual,
 18 Plaintiff,
 19 v.
 20 DOMTAR CORPORATION, a Delaware
 corporation,
 21 Defendant.

Case No. 5:16-CV-4995-EJD

**STIPULATION & ~~[PROPOSED]~~ ORDER TO
 EXTEND DISPOSITIVE MOTION
 DEADLINES**

Judge: Hon. Edward J. Davila
 Courtroom 4, Fifth Floor

23 PLAINTIFF KELLY BREZOCZKY (“Plaintiff”) and DEFENDANT DOMTAR
 24 CORPORATION (“Defendant”), pursuant to Local Rules 6-2, 7-3 and 7-12, jointly submit this
 25 stipulation asking the Court to briefly extend the deadlines for: (1) Plaintiff to file her opposition to
 26 Domtar Corporation’s Notice of Motion and Motion for Summary Judgment and or Adjudication
 27 (“Motion,” ECF No. 63); and (2) Defendant to file its reply in support of the Motion. The proposed
 28 new dates below would not impact any other deadlines as described below.

RECITALS

WHEREAS, on **October 17, 2017**, Defendant filed the Motion;

WHEREAS, pursuant to Local Rule 7.3(a), Plaintiff's opposition to the Motion is due on **October 31, 2017**;

WHEREAS, Plaintiff has requested that Defendant agree to extend Plaintiff's deadline for filing the opposition to the Motion by one (1) day to **November 1, 2017**;

WHEREAS, Plaintiff has been diligent in preparing its opposition to the Motion but requires additional time for various reason, including but not limited to:

- a. Plaintiff and former Defendant Polsinelli PC have been engaged in settlement negotiations that successfully resulted in the execution of a settlement agreement and the filing on October 27, 2017, of a stipulation dismissing all claims against Polsinelli PC *with prejudice*, which was entered by this Court on October 30, 2017 (ECF No. 74);
- b. Counsel for Plaintiff is lead trial counsel for the plaintiff in a matter styled *Gregory Ingalls et al v. Spotify USA Inc.*, 3:16-cv-03533-WHA, pending before the Honorable William Alsup in the San Francisco Division of this Court. On **October 27, 2017**, the parties were required to serve their pre-trial disclosures in this matter pursuant to Fed. R. Civ. P. 26(a)(3)(C).
- c. Also in the *Ingalls* matter, the parties are required to file a joint proposed final pretrial order and other pretrial materials on **October 31, 2017**, in advance of the pretrial conference set for **November 8, 2017**.

WHEREAS, Defendant has agreed to grant Plaintiff one (1) additional day to file her opposition to the Motion on **November 1, 2017**;

WHEREAS, pursuant to Local Rule 7-3(c), provided this stipulation is granted, Defendant's reply in support of the Motion would be due on **November 8, 2017**;

WHEREAS, Plaintiff has agreed to provide Defendant with one (1) additional day to file its reply in support of the Motion on **November 9, 2017**;

1 WHEREAS, the dispositive motion deadlines in this case have not been extended with respect
2 to the Domtar Motion;¹

3 WHEREAS, there is good cause for extending the deadlines as set forth herein;

4 WHEREAS, extending this deadline would not prejudice any party;

5 WHEREAS, extending the deadlines as set forth herein would not affect any other dates in the
6 Amended Pretrial Order in the event the Court accepts the proposed new deadlines below.

7 **STIPULATION**

8 IT IS HEREBY STIPULATED by the parties that:

9 A. Plaintiff shall file her opposition to the Motion on **November 1, 2017**; and

10 B. Defendant shall file its reply in support of the Motion on **November 9, 2017**.

11 Dated: October 30, 2017

LEONARDMEYER LLP

12 By: /s/ Derek J. Meyer

13 Derek J. Meyer

14 Attorneys for Plaintiff

15
16 Dated: October 30, 2017

DOMTAR CORPORATION

17 By: /s/ Noel S. Cohen (with consent)

18 Noel S. Cohen

Attorneys for Defendant

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

21
22 Dated: October 31, 2017



23 Hon. Edward J. Davila

24 United States District Judge

25
26 _____
27 ¹ Deadlines with respect to dispositive motions to be filed by Polsinelli PC were previously extended
28 to allow time for the parties to negotiate settlement. (ECF Nos. 60 and 70.) As a result of the negotiations, Polsinelli PC did not file a dispositive motion and has been dismissed *with prejudice*.

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DECLARATION OF DEREK J. MEYER

I, Derek J. Meyer, declare and state as follows:

1. I am an attorney duly licensed to practice law before all courts in the State of California, including the United States District Court for the Northern District of California. I am one of the attorneys of record for Plaintiff in the above-captioned matter.

2. I have personal knowledge of the facts set forth herein and if called as a witness, I could and would testify competently as to those facts.

3. On **October 17, 2017**, Defendant filed its Notice of Motion and Motion for Summary Judgment and or Adjudication (“Motion”, ECF No. 63);

4. Pursuant to Local Rule 7.3(a), Plaintiff’s opposition to the Motion is due on **October 31, 2017**;

5. Plaintiff has requested that Defendant agree to extend Plaintiff’s deadline for filing the opposition to the Motion by one (1) day to **November 1, 2017**;

6. Plaintiff has been diligent in preparing its opposition to the Motion but requires additional time for various reason, including but not limited to:

a. Plaintiff and former Defendant Polsinelli PC have been engaged in settlement negotiations that successfully resulted in the execution of a settlement agreement and the filing on October 27, 2017, of a stipulation dismissing all claims against Polsinelli PC with prejudice, which was entered by this Court on October 30, 2017 (ECF No. 74);

b. I am lead trial counsel for the plaintiff in a matter styled *Gregory Ingalls et al v. Spotify USA Inc.*, 3:16-cv-03533-WHA, pending before the Honorable William Alsup in the San Francisco Division of this Court. On **October 27, 2017**, the parties were required to serve their pre-trial disclosures in this matter pursuant to Fed. R. Civ. P. 26(a)(3)(C).

c. Also in the *Ingalls* matter, the parties are required to file a joint proposed final pretrial order and other pretrial materials on **October 31, 2017**, in advance of the pretrial conference set for **November 8, 2017**.

7. Defendant has agreed to grant Plaintiff one (1) additional day to file her opposition to

1 the Motion on **November 1, 2017**;

2 8. Pursuant to Local Rule 7-3(c), provided this stipulation is granted, Defendant's reply in
3 support of the Motion would be due on **November 8, 2017**;

4 9. Plaintiff has agreed to provide Defendant with one (1) additional day to file its reply in
5 support of the Motion on **November 9, 2017**;

6 10. The dispositive motion deadlines in this case have not been extended with respect to
7 the Domtar Motion;

8 11. There is good cause for extending the deadlines as set forth herein;

9 12. Extending this deadline would not prejudice any party;

10 13. Extending the deadlines as set forth herein would not affect any other dates in the
11 Amended Pretrial Order in the event the Court accepts the proposed new deadlines set forth herein.

12 I declare under penalty of perjury under the laws of the United States of America that the
13 foregoing is true and correct.

14 Executed on October 30, 2017 at Los Angeles, California.

15 /s/ Derek J. Meyer

16 _____
Derek J. Meyer