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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

AVIARA PARKWAY FARMS, INC. and
RANCHO SANTA FE PRODUCE, INC.,

Plaintiffs,

v.

AGROPECUARIA LA FINCA, S.P.R. de R.L.,
et al.,

Defendants.

Civil No. 08cv2301 JM (CAB)

**ORDER GRANTING DEFENDANT
VALLEY FRESH PRODUCE’S REQUEST
TO BE EXCUSED FROM THE ENE
[Doc. No. 46.]**

On January 27, 2009, the Court ordered an Early Neutral Evaluation Conference to be held on March 4, 2009. [Doc. No. 29.] Pursuant to Local Civil Rule 16.5(l)(6), the parties were ordered to appear personally. [Doc. No. 5 at 2.] Personal appearance may be excused only for good cause shown. Civ.L.R. 16.5(l)(6).

On March 2, 2009, Defendant Valley Fresh Produce (“VFP”) requested its client representative and attorney be excused from appearing at the conference. VFP did not answer the Complaint until February 20, 2009, and claims it was not aware of the conference until February 27, 2009, when it was contacted by the Court regarding its failure to submit a confidential ENE statement. As a result, VFP argues it did not have time to prepare and arrange for attendance at the conference. Both the client representative and attorney are located in Santa Cruz, California.

While the Court acknowledges VFP did not file its answer until February 20, 2009, the simple fact that it entered the case after the issuance of this Court’s scheduling order does not excuse VFP’s

1 failure to read the docket and adhere to all pertinent court orders. Reasonable diligence would have
2 alerted VFP of the conference no later than February 20, 2009. However, given the allegations in the
3 Complaint as they relate to VFP and the role of VFP in the case, the Court finds good cause to excuse
4 VFP's client representative and attorney from appearing personally at the conference, notwithstanding
5 the lack of diligence on the part of VFP's counsel. Accordingly, VFP's motion to be excused from
6 personal appearance at the ENE is **GRANTED**. Counsel for VFP shall be available telephonically
7 between 10:00 a.m. and 12:00 p.m., should the Court need to contact him during the conference.

8 **IT IS SO ORDERED.**

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10 DATED: March 3, 2009

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13 **CATHY ANN BENCIVENGO**
14 United States Magistrate Judge
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