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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

In re FERRERO LITIGATION,¹

CASE NO. 11-CV-205 H (CAB)

ORDER

**(1) GRANTING EX PARTE
MOTION FOR EXTENSION OF
TIME TO RESPOND TO
COMPLAINT**

**(2) DENYING EX PARTE
MOTION TO STAY
DISCOVERY**

On March 29, 2011, Defendant Ferrero U.S.A., Inc. (“Ferrero”) filed an ex parte motion for an extension of time to respond to Plaintiffs’ consolidated complaint and for a stay of discovery. (Doc. No. 21.) On March 30, 2010, Plaintiffs filed a response in opposition to Ferrero’s ex parte motion. (Doc. No. 22.) On March 31, 2011, Ferrero filed its reply. (Doc. No. 23.)

In its ex parte motion, Ferrero first seeks an extension of time to respond to Plaintiffs’ consolidated complaint until thirty (30) days after the Court’s order on Ferrero’s motion to transfer. (Doc. No. 21.) For good cause shown, the Court GRANTS Ferrero’s ex parte motion

¹ The Court directs the parties to use the above title as the title of the consolidated action in all future filings.

1 for extension of time to respond. The Court declines to adopt the response date proposed by
2 Ferrero. Instead, Defendant Ferrero is directed to file any response to Plaintiffs' consolidated
3 complaint on or before **April 18, 2011**.

4 In its ex parte motion, Ferrero also requests a stay of discovery until after the Court's
5 ruling on Ferrero's motion to transfer, with the exception of venue discovery already
6 propounded by Plaintiffs in connection with the motion to transfer. (Doc. No. 21.) A district
7 court is vested with the discretion to stay an action based on its inherent power to control its
8 own docket. Landis v. N. Am. Co., 299 U.S. 248, 254 (1936). "A trial court may, with
9 propriety, find it is efficient for its own docket and the fairest course for the parties to enter a
10 stay of an action before it, pending resolution of independent proceedings which bear upon the
11 case." Mediterranean Enters., Inc. v. Ssangyong Corp., 708 F.2d 1458, 1465 (9th Cir. 1983).

12 In considering a stay request, the Court generally considers the following:

- 13 (1) the interest of the plaintiffs in proceeding expeditiously with this litigation
- 14 or any particular aspect of it, and the potential prejudice to plaintiffs of a delay;
- 15 (2) the burden which any particular aspect of the proceedings may impose on
- 16 defendants; (3) the convenience of the court in the management of its cases, and
- 17 the efficient use of judicial resources; (4) the interests of persons not parties to
- 18 the civil litigation; and (5) the interest of the public in the pending civil and

19 Keating v. Office of Thrift Supervision, 45 F.3d 322, 324-25 (9th Cir. 1995).

20 Exercising its sound discretion, the Court declines to stay the discovery in this litigation.

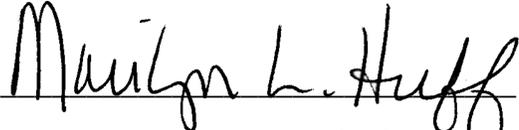
21 In requesting a stay, Ferrero does not address any of the above factors. Instead, it
22 conclusively argues that prior to the Court's ruling on Ferrero's motion to transfer, "it should
23 not be required to press forward with litigation in the interim, including . . . engaging in
24 general (i.e., non-venue related), discovery with multiple plaintiffs." (Doc. No. 21-1 at 3.)

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1 After considering the applicable standards for a stay of litigation and the parties' arguments,
2 the Court DENIES Ferrero's ex parte motion to stay.

3 **IT IS SO ORDERED.**

4 DATED: April 4, 2011



MARILYN L. HUFF, District Judge
UNITED STATES DISTRICT COURT

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