## UNITED STATES DISTRICT COURT EASTERN DISTRICT OF MICHIGAN SOUTHERN DIVISION

COUNTRY FRESH, L.L.C.,

Plaintiff,

VS.

CASE NO. 2:11-cv-10912-PJD-MKM HON. PATRICK J. DUGGAN

RETAIL, WHOLESALE AND DEPARTMENT STORE UNION LOCAL 602 UFCW,

Defendant,

CUMMINGS, McCLOREY, DAVIS & ACHO, PLC By: RONALD G. ACHO (P 23913) 33900 Schoolcraft Livonia, MI 48150 (734) 261-2400 Attorneys for Plaintiff racho@cmda-law.com

SPENDER & ROB, P.C. By: STEVEN F. SPENDER (P 20830) 1289 S. Linden Road, Suite B Flint, MI 48532 (810) 230-1415 Co-Counsel for Defendant sspender@srbpc.com

## STIPULATION AND ORDER FOR CONSENT DECLARATORY JUDGMENT

**IT IS HEREBY STIPULATED,** by and between the parties hereto, through their respective attorneys of record, that the demand for binding arbitration that Defendant Retail, Wholesale and Department Store Union Local 602 UFCW (hereinafter Local 602), has filed on behalf of a retired former employee from the former Flint Plant and Distribution Center of the Plaintiff Country Fresh L.L.C., under the grievance procedure outlined in the Collective Bargaining Agreement, effective

from September 6, 2008 through and including September 10, 2011 is dismissed, as the grievance, which involves pension rights of an individual participant, is not arbitrable as a matter of law.

**IT IS FURTHER STIPULATED** that any scheduled and pending arbitration hearings on the grievance filed by Local 602 on this issue are cancelled.

**IT IS FURTHER STIPULATED** the participants and/or beneficiaries of the Company Pension Plan IP-318 (also known as McDonald Dairy Company Pension Plan) are obligated to utilize the appeal procedures as set forth in the Summary Plan Document.

**IT IS FURTHER STIPULATED**, that a Consent Declaratory Judgement be entered and this case be dismissed without prejudice and without costs to either party.

/s/ Ronald G. Acho

Cummings, McClorey, Davis, & Acho, P.L.C. 33900 Schoolcraft Road Livonia, MI 48150 (734) 261-2400 Attorneys for Plaintiff Email: racho@cmda-law.com (P23913)

/s/ with consent of Steven F. Spender SPENDER & ROB, P.C. 1289 S. Linden Road, Suite B Flint, MI 48532 (810) 230-1415 Co-Counsel for Defendant Email: sspender@srbpc.com (P 20830)

Dated: May 12, 2011

/s/ with consent of Dean T. Yeotis
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Co-Counsel for Defendant
Email: www.deanyeotis.net
(P41290)

## **ORDER**

## IT IS SO ORDERED.

S/Patrick J. Duggan	
Patrick J. Duggan	
United States District Judge	

Dated: May 20, 2011

I hereby certify that a copy of the foregoing document was served upon counsel of record on May 20, 2011, by electronic and/or ordinary mail.

S/Marilyn Orem
Case Manager