

**UNITED STATES DISTRICT COURT
STATE OF MINNESOTA**

Jeffrey Almer as trustee for the heirs of
Shirley Mae Almer,

Case No. 09-cv-00268 (MJD/JSM)

Plaintiff,

vs.

Peanut Corporation of America, a Virginia
business entity and King Nut Companies,
an Ohio business entity,

Defendants.

**SIXTH STIPULATION FOR EXTENSION OF TIME
TO ANSWER OR OTHERWISE PLEAD**

WHEREAS, Plaintiff Jeffrey Almer as trustee for the heirs of Shirley Mae Almer, served a Complaint against Defendant Peanut Corporation of America (“Defendant PCA”) and Defendant Kanan Enterprises, Inc., d/b/a King Nut Companies (“Defendant Kanan”), on or about January 27, 2009;

WHEREAS, counsel for Plaintiff agreed to grant Defendant PCA and Defendant Kanan an extension of time to answer or otherwise plead until March 10, 2009 [ECF Dkt. #2];

WHEREAS, on February 12, 2009, U.S. Magistrate Judge Susan Richard Nelson entered an order granting Defendant PCA and Defendant Kanan an extension of time to answer or otherwise plead until March 10, 2009 [ECF Dkt. #3];

WHEREAS, on February 17, 2009, Defendant PCA filed a Notice of Filing Bankruptcy by Defendant Peanut Corporation of America [ECF Dkt. #4], to which it attached as Exhibit A a copy of its Voluntary Bankruptcy Petition [ECF Dkt. #4-2]. Within such Notice, Defendant PCA notified the Court and the parties that, “[a]s a result of the bankruptcy filing by [Defendant PCA], the claims of [Plaintiff] Jeffrey Almer as trustee for the heirs of Shirley Mae Almer are stayed as a matter of law under 11 U.S.C. § 362(A).” [ECF Dkt. #4];

WHEREAS, as a result of the stay of claims against Defendant PCA, Plaintiff’s counsel agreed to grant Defendant Kanan an extension of time to answer or otherwise plead until March 10, 2009 [ECF Dkt. #7];

WHEREAS, on March 9, 2009, U.S. Magistrate Judge Janie S. Mayeron entered an order granting Defendant Kanan an extension of time to answer or otherwise plead until March 24, 2009 [ECF Dkt. #8];

WHEREAS, on or about March 12, 2009, counsel for the Trustee of the Bankruptcy estate of PCA; counsel and representatives of PCA’s insurer, The Hartford Insurance Company; counsel for Plaintiff in this case, who also represent other potential plaintiffs allegedly injured by the consumption of PCA peanut butter containing *Salmonella*; counsel representing other plaintiffs with similar claims involving the

consumption of PCA peanut butter; counsel for Defendant Kanan; and counsel for Kellogg, Inc., another entity facing claims similar to those against Kanan in this case, agreed to meet to discuss a potential mechanism to resolve all PCA *Salmonella* claims and lawsuits, including this one, under the supervision of the bankruptcy trustee and court. Representatives of the parties listed above had scheduled meeting to discuss the potential for such a global settlement mechanism for April 8, 2009.

WHEREAS, as a result of the parties' pending meeting and the potential for settlement of this matter without further litigation before this Court, Plaintiff's counsel agreed to grant Defendant Kanan an extension of time to answer or otherwise plead until April 24, 2009 [ECF Dkt. #9].

WHEREAS, on March 30, 2009, U.S. Magistrate Judge Janie S. Mayeron entered an order granting Defendant Kanan an extension of time to answer or otherwise plead until April 24, 2009 [ECF Dkt. #10].

WHEREAS, on April 8, 2009, representatives of the various parties identified above met to discuss the potential for a global settlement mechanism of PCA-related *Salmonella* claims and lawsuits, including this one, under the supervision of the bankruptcy trustee and court. A draft settlement Agreement was later circulated among the parties and more settlement discussions followed.

WHEREAS, as a result of the parties' ongoing discussions and the potential for settlement of this matter without further litigation before this Court, Plaintiff's counsel

agreed to grant a further extension of time in which Defendant Kanan must answer or otherwise plead until May 26, 2009 [ECF Dkt. #11].

WHEREAS, on April 24, 2009, U.S. Magistrate Judge Janie S. Mayeron entered an order granting Defendant Kanan an extension of time to answer or otherwise plead until May 26, 2009 [ECF Dkt. #12].

WHEREAS, during the month of May, 2009, the parties continued settlement discussions and circulated revisions to the draft Settlement Agreement. While the parties have not yet agreed on the final terms of the Agreement, discussions continue, and all parties remain interested in continuing to explore settlement.

WHEREAS, as a result of the parties' ongoing discussions and the potential for settlement of this matter without further litigation before this Court, Plaintiff's counsel agreed to grant a further extension of time in which Defendant Kanan must answer or otherwise plead until July 7, 2009 [ECF Dkt. #16].

WHEREAS, on June 1, 2009, U.S. Magistrate Judge Janie S. Mayeron entered an order granting Defendant Kanan an extension of time to answer or otherwise plead until July 7, 2009 [ECF Dkt. #17].

WHEREAS, during the month of June, 2009, the parties continued settlement discussions, and counsel for the Trustee for the Bankruptcy Estate of Defendant PCA circulated a draft "PCA Salmonella Claim Settlement and Distribution Procedures" from the United States Bankruptcy Court for the Western District of Virginia and a proposed Notice to Salmonella Claimants.

WHEREAS, as a result of the parties' ongoing discussions and progress towards potential settlement of this matter without further litigation before this Court, Plaintiff's counsel has agreed to grant a further extension of time in which Defendant Kanan must answer or otherwise plead until August 31, 2009.

IT IS HEREBY STIPULATED by Plaintiff Jeffrey Almer as trustee for the heirs of Shirley Mae Almer and Defendant Kanan, through their undersigned counsel, that the time within which Defendant Kanan shall answer or otherwise plead shall be extended to August 31, 2009.

Dated: July 7, 2009

PRITZKER | OLSEN, P.A.

By s/ Fred H. Pritzker
Fred H. Pritzker, Reg. No. 88456
Plaza VII, Suite 2950
45 South Seventh Street
Minneapolis, MN 55402-1652
fhp@pritzkerlaw.com
(612) 338-0202

Attorneys for Plaintiff

Dated: July 7, 2009

**HALLELAND LEWIS NILAN &
JOHNSON, P.A.**

By s/ Sarah L. Brew

Sarah L. Brew, Reg. No. 209958
600 U.S. Bank Plaza South
220 South Sixth Street
Minneapolis, MN 55402-4501
sbrew@halleland.com
(612) 573-2959

Attorneys for Defendant Kanan
Enterprises, Inc., d/b/a King Nut
Companies