

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

Jose A. Gomez, et al,)
)
 Plaintiffs,)
)
 v.)
)
 Tyson Foods, Inc.,)
)
)
 Defendant.)

Case No: 8:08-cv-00021-JFB-TDT

JOINT STIPULATION

The parties respectfully submit for Court approval this Proposed Joint Stipulation regarding an agreement to postpone the submission and briefing of plaintiffs' petition for fees and expenses in this case in the event that either party appeals to the U.S. Court of Appeals for the Eighth Circuit. The terms and conditions of this Stipulation are the following:

1. Plaintiffs agree that their fee request will be based on rate information that would have been relevant to their fee petition had the parties not entered into this Stipulation, as opposed to rates at the time either party's appeal is decided. Thus, Plaintiffs will not seek at a later date hourly rates higher than those applicable at the time their fee petition would have been due in the absence of this Stipulation; provided, however, that nothing in the Parties' Stipulation or this Order shall limit the rights of Plaintiffs to seek attorneys fees in *Acosta v.*

Tyson Foods, Inc., No. 8:08-cv-00086-JFB-TDT (D. Neb.) or in *Gomez v. Tyson Foods, Inc.*, No. 8:08-00021-JFB-TDT (D. Neb.) on a percentage of recovery basis or the rights of Defendant to oppose recovery on all grounds available at the time the stipulation is entered. Defendant reserves all of its arguments against Plaintiffs' fee petition. (For example, by way of example only, Defendant does not concede the appropriateness of "national market rates.")

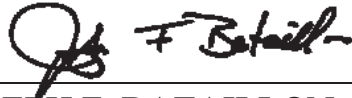
2. Should the court decline to enter this stipulation, or act contrary to the stipulation at a later date, then the parties agree that the instant Stipulation will no longer be in force. Plaintiffs will then file their Reply Brief in *Bouaphakeo et al., v. Tyson Foods, Inc.* Civil No. 5:07-cv-04009 within ten (10) days of the Court's order denying the proposed stipulation.
3. Plaintiffs agree to take all steps necessary to ensure that the judgment in this case is a final appealable judgment with respect to both liability and damages, notwithstanding the postponement of fee briefing.
4. Plaintiffs agree not to seek to alter the terms of this Stipulation or argue changed circumstances or non-applicability at a later date.

Upon the foregoing.

IT IS ORDERED that the parties' Joint Stipulation Regarding Postponement

of Briefing Regarding Plaintiffs' Motion for Fees and Expenses of the appeal in this case is GRANTED.

DATED this 4th day of March, 2013.

A handwritten signature in black ink, appearing to read "JF Battillon". The signature is written in a cursive style with a large initial "J" and "B".

JOSEPH F. BATAILLON
UNITED STATES DISTRICT JUDGE
FOR THE DISTRICT COURT OF NEBRASKA

Respectfully submitted,

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This 4th day of March, 2013.

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