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**STIP**  
John P. Aldrich  
Nevada Bar No. 6877  
ALDRICH LAW FIRM, LTD.  
1601 S. Rainbow Blvd.,  
Las Vegas, NV 89146  
Telephone: (702) 853-5490  
Facsimile: (702) 227-1975  
john@johnaldrichlawfirm.com

Shane Rowley  
Danielle Rowland Lindahl  
ROWLEY LAW PLLC  
50 Main Street, Suite 1000  
White Plains, NY 10606  
Telephone: (914) 400-1920  
Facsimile: (914) 301-3514  
srowley@rowleylawpllc.com  
drl@rowleylawpllc.com

*Attorneys for Plaintiff Michael Fromberger*

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

Case No. 2:17-cv-02815

MICHAEL FROMBERGER, Individually and  
On Behalf of All Others Similarly Situated,

Plaintiff,

v.

OMEGA PROTEIN CORPORATION,  
GARY R. GOODWIN, BRET D. SCHOLTES,  
STEPHEN C. BRYAN, MICHAEL N.  
CHRISTODOLOU, CELESTE A. CLARK,  
DAVID H. CLARKE, DAVID A. OWEN,  
DAVID W. WEHLMANN, COOKE INC.,  
and ALPHA MERGERSUB, INC.,

Defendants.

**STIPULATION OF DISMISSAL AND  
ORDER**

ECF NO. 4

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2  
3 WHEREAS, on November 6, 2017, Plaintiff Adam Franchi filed a Class Action  
4 Complaint in Case No. 2:17-cv-02805 in the United States District Court for the District of  
5 Nevada (THE “Franchi Action”);

6 WHEREAS, on November 7, 2017, Plaintiff Michael Fromberger filed the above  
7 captioned action;

8 WHEREAS, on November 13, 2017 Plaintiff Daniel Durkee filed a Class Action  
9 Complaint in Case No. 2:17-cv-02849 in the United States District Court for the District of  
10 Nevada (the “Durkee Action”);

11  
12 WHEREAS, each of the three actions (collectively, “the Actions”) assert claims for  
13 violations of Sections 14(a) and 20(a) of the Securities Exchange Act of 1934 and Rule 14a-9  
14 promulgated thereunder relating to disclosures made in a Form PREM14A (the “Preliminary  
15 Proxy Statement”) filed with the United States Securities and Exchange Commission (the  
16 “SEC”) on or around October 30, 2017, in connection with the proposed acquisition of Omega  
17 Protein Corporation (“Omega”) by Cooke Inc.;

18  
19 WHEREAS, following commencement of the Actions, the Parties entered into  
20 negotiations and took certain actions that led to the issuance of the Supplemental Disclosures  
21 (defined below).

22 WHEREAS, on November 24, 2017, Omega made certain of the disclosures demanded in  
23 the Actions by including them in a Definitive Proxy Statement filed with the SEC  
24 (“Supplemental Disclosures”);

25  
26 WHEREAS, Defendants acknowledge that these Supplemental Disclosures were made, at  
27 least in part, in response to the Actions;

28

1 WHEREAS, based on their review and analysis of the Supplemental Disclosures,  
2 Plaintiffs believe that sufficient material information addressing their claims was provided in the  
3 Supplemental Disclosures to warrant dismissal of the Complaints as moot;

4 WHEREAS, on January 30, 2018 the Franchi Action was dismissed;

5 WHEREAS, on January 30, 2018 the Durkee Action was dismissed;

6 WHEREAS, as a result of the Supplemental Disclosures, Plaintiffs assert that they have  
7 created a substantial benefit for Omega stockholders and that Plaintiffs' counsel have a claim for  
8 attorney's fees and expenses in connection with the prosecution of the Actions;

9  
10 WHEREAS, the parties intend to meet and confer concerning Plaintiffs' counsels' claim  
11 for fees and expenses;

12 WHEREAS, Defendants expressly deny that any claim asserted by Plaintiffs is or ever  
13 was meritorious, and continue to deny that they committed or aided and abetted any violation of  
14 law, or engaged in any of the wrongful acts alleged in the Complaints, further deny that the  
15 Supplemental Disclosures contained any additional facts that were required to be disclosed, and  
16 expressly maintain that they have diligently complied with all of their legal obligations;

17  
18 WHEREAS, for the avoidance of doubt, no compensation in any form has passed directly  
19 or indirectly to Plaintiffs or Plaintiffs' counsel, and no promise, understanding, or agreement to  
20 give any such compensation has been made; nor have the parties had any discussions concerning  
21 the amount of any attorney's fees and expenses; and

22 WHEREAS, no class has been certified in the Actions.

23  
24 **NOW, THEREFORE, IT IS STIPULATED AND AGREED** by the undersigned  
25 parties, through their attorneys and subject to the Court's approval, that:

- 26 1. This action is dismissed pursuant to Rule 41(a)(1)(A) of the Federal Rules of Civil  
27 Procedure, and all claims asserted therein are dismissed with prejudice as to the  
28

1 named Plaintiff, individually, and without prejudice as to any actual or potential  
2 claims of any other putative class member.

- 3 2. As the dismissal is with prejudice to Plaintiff only, and without prejudice as to all  
4 other members of the putative class, notice of this dismissal is not required.
- 5 3. The named Plaintiff releases Defendants from all claims that were brought in the  
6 action or otherwise could have been brought. This release is not given on behalf of  
7 any other member of the putative class.  
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9  
10 **ORDER**

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12 Based on the parties' stipulation [ECF No. 4] and good cause appearing, IT IS  
13 HEREBY ORDERED that **this action is DISMISSED** with prejudice, each party to  
14 bear its own fees and costs.

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17 U.S. District Judge Jennifer A Dorsey  
18 February 4, 2018  
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