1 2 3 4 5 6 7 UNITED STATES DISTRICT COURT 8 WESTERN DISTRICT OF WASHINGTON AT SEATTLE 9 GINA KIM, on behalf of a class consisting of ) Cause No. 2:11-CV-00214 RSM herself and all other persons similarly situated, ) 10 Plaintiffs. PLAINTIFF'S MOTION TO COMPEL **RULE 26(F) INITIAL DISCOVERY** 11COACH, INC., a Maryland corporation, and **CONFERENCE** COACH SERVICES, INC., a Maryland 12 corporation, NOTE FOR MOTION CALENDAR: Defendants. FRIDAY, APRIL 1, 2011 13 14 15 The Complaint in this matter was filed and served on February 9, 2011, more than five 16 weeks ago. Since that time, Plaintiff's counsel has repeatedly requested that Defendant Coach 17 participate in the required Rule 26(f) initial discovery conference. To this date, Defendant Coach 18 has steadfastly refused to conduct the Rule 26(f) initial conference, or to even schedule such a 19 conference. See Carlson Decl., Ex. A (e-mail correspondence between counsel). Coach's 20 counsel has merely indicated that he "will alert [us] when the Coach companies' counsel has 21 completed the necessary preparation work, so that a Rule 26 conference may be scheduled." 22 Carlson Decl., Ex. B. **23** Defense counsel has claimed that they have not been able to complete preparatory work 24 necessary to allow them to schedule a Rule 26(f) initial conference. However, during this same 25 period, defense counsel has had time to answer the complaint, file specious counterclaims 26 against opposing counsel for defamation, research the merits of this case and write a lengthy 27 Cause No. 2:11-CV-00214 RSM PLAINTIFF'S MOTION TO COMPEL CARLSON LEGAL 28 100 W. HARRISON ST. RULE 26(F) CONFERENCE - 1 SUITE N440 SEATTLE, WA 98119

(206) 291-7419

28

1

letter threatening Rule 11 sanctions, draft multiple protective order proposals, file a motion for entry of a protective order, and correspond actively with opposing counsel. *See* Answer and Counterclaims, Docket No. 6, Motion for Entry of Protective Order, Docket No. 10, Carlson Declaration, Docket No. 9, Ex. A; Eagan Declaration, Docket No. 12, Exs. A, H. We believe that the real reason Coach refuses to confer is because Coach knows that, pursuant to the Civil Rules, the Plaintiff cannot commence discovery until the Rule 26(f) conference takes place.

Rule 26(f) requires that the parties conduct an initial discovery conference "as soon as practicable[.]" In the last five weeks, Coach has had ample opportunity to prepare itself for an initial conference. Getting discovery underway promptly is particularly important in this class action case, where the Local Rules require Plaintiff to file her motion for class certification within 180 days of filing the Complaint. LR 23(a)(3). Defendant's refusal to "get started" with discovery has, and will continue to, seriously prejudice Plaintiff's ability to diligently prosecute this case.

We therefore respectfully request that the Court compel Defendant Coach to conduct a rule 26(f) initial conference within seven days of entry of this Court's Order.

DATED this 16th day of March, 2011.

Jay S. Carlson, WSBA No. 30411 Carlson Legal Christopher Carney, WSBA No. 30325 Carney Gillespie & Isitt PLLC Jason Moore Van Eyk & Moore, PLLC 100 W. Harrison St., Suite N440 Seattle, WA 98119

Cause No. 2:11-CV-00214 RSM PLAINTIFF'S MOTION TO COMPEL RULE 26(F) CONFERENCE