

The Honorable Barbara J. Rothstein

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

TRADE JOE'S COMPANY, a
California Corporation,

Plaintiff,

V.

MICHAEL NORMAN HALLATT, an individual, d/b/a PIRATE JOE'S a/k/a TRANSILVANIA TRADING; and DOES 1-10.

Defendants.

Case No. 2:13-cv-00768-BJR

**STIPULATION AND ORDER TO (1)
EXTEND CASE DEADLINES AND
(2) ENLARGE PAGE LIMITS FOR
TRADER JOE'S PRELIMINARY
INJUNCTION MOTION**

**NOTE ON MOTION CALENDAR:
May 22, 2017**

This Joint Stipulation to (1) Extend Case Deadlines and (2) Enlarge Page Limits for Trader Joe's Motion for Preliminary Injunction between Plaintiff Trader Joe's Company ("Trader Joe's" or "Plaintiff"), on the one hand, and Defendant Michael Norman Hallatt d/b/a Pirate Joe's a/k/a Transilvania Trading ("Mr. Hallatt" or "Defendant"), on the other hand, is made with respect to the following facts and recitals:

WHEREAS, on December 20, 2016, the Court entered a scheduling order (Dkt. No. 58) in this action:

WHEREAS, on May 9, 2017, on the parties' stipulated request, the Court entered an order (Dkt. No. 74) extending the following deadlines: (1) the deadline for the close of non-

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1 expert discovery, solely to allow the parties to complete five remaining depositions
2 (Defendant Michael Hallatt; Trader Joe's employees Nicole Kendall, Carla Hechler, and
3 Matt Sloan; and third party World Class Distribution, Inc.) from May 17, 2017 to June 7,
4 2017; (2) the Initial Expert Disclosure & Report Deadline from June 7, 2017 to June 21,
5 2017; and (3) the Rebuttal Expert Disclosure & Report Deadline from June 28, 2017 to July
6 12, 2017;

7 WHEREAS, Mr. Hallatt's deposition is currently scheduled to take place on May 25
8 and 26, 2017, and the depositions of Ms. Kendall, Ms. Hechler, Mr. Sloan, and World Class
9 Distribution, Inc. are currently scheduled to take place from May 30 to June 1, 2017;

10 WHEREAS, on May 12, 2017, counsel for Trader Joe's informed Nathan Alexander
11 of Dorsey & Whitney LLP, then counsel of record for Mr. Hallatt, that, shortly after close
12 of fact discovery, Trader Joe's intended to move for a court order preliminarily enjoining
13 Mr. Hallatt from reselling Trader Joe's food products at his current location (3744 West
14 10th Street) or at any other location, and asked whether Mr. Hallatt would join a joint
15 request to the Court to extend the page limit for Trader Joe's motion and Mr. Hallatt's
16 opposition from 15 pages to 24 pages and the page limit for Trader Joe's reply from 10
17 pages to 12 pages, in view of the complexity of the issues likely to be raised in those briefs;

18 WHEREAS, during the parties' May 18, 2017 telephonic conference on Trader
19 Joe's anticipated preliminary injunction motion, Mr. Alexander informed Trader Joe's
20 counsel that he and his firm would be withdrawing from representation of Mr. Hallatt and
21 that Mike Matesky of Matesky Law PLLC and Michael G. Atkins of Atkins Intellectual
22 Property, PLLC would be representing Mr. Hallatt moving forward. In view of their recent
23 entrance into the case, Mr. Matesky and Mr. Atkins requested Trader Joe's delay filing its
24 preliminary injunction motion by two weeks and that Trader Joe's join in a stipulated
25 request to extend certain deadlines;

26 WHEREAS, on May 19, 2017, Mr. Matesky filed a notice of appearance on behalf

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1 of Mr. Hallatt (Dkt. No. 77) and Mr. Alexander filed a motion to withdraw as Mr. Hallatt's
2 attorney (Dkt. No. 78);

3 WHEREAS, the parties have agreed on a case schedule that provides Mr. Matesky
4 and Mr. Atkins with additional time to enter the case, that does not prejudice Trader Joe's
5 or its anticipated preliminary injunction motion, and that minimizes any inconvenience to
6 the Court;

7 WHEREAS, the parties have also agreed on extending the page limits related to
8 Trader Joe's anticipated preliminary injunction motion, in view of the fact that said motion
9 will concern the quality control practices of both Trader Joe's and Mr. Hallatt and will
10 require both parties to address Trader Joe's likelihood of success on the merits of its claims,
11 whether Trader Joe's will suffer irreparable harm absent a preliminary injunction, whether
12 the balance of hardships favors a preliminary injunction, and whether a preliminary
13 injunction would serve the public interest; and

14 WHEREAS, in light of the above, the parties believe that good cause exists for entry
15 of the following stipulation;

16 NOW THEREFORE, by and through the undersigned counsel, the parties stipulate
17 and agree as follows, subject to the Court's approval:

18 1. Good cause appearing, the case schedule be adjusted as follows:

Event	Current Date	New Date
Deposition of Mr. Hallatt (two days per Dkt. No. 55)	5/25/2017 and 5/26/2017	6/6/2017 for first day and no later than 8/7/2017 for second day
Depositions of Sloan, Hechler, Kendall, and World Class Distribution	By 6/7/2017	6/14/2017 to 6/16/2017; completed no later than 8/7/2017
Initial expert disclosure & report deadline	6/21/2017	8/18/2017

Event	Current Date	New Date
Rebuttal expert disclosure & report deadline	7/12/2017	9/8/2017
Close of expert discovery (including noticing deadline for discovery motions)	8/4/2017	10/3/2017
Filing deadline for dispositive motions & Dauberts	8/17/2017	10/12/2017
Deadline for opposition briefing	9/7/2017	11/2/2017
Deadline for reply briefing	9/28/2017	11/16/2017
Filing deadline for MILs	10/4/2017	11/30/2017
Filing deadline for oppositions to MILs	10/11/2017	12/7/2017

2. As previously agreed, Mr. Hallatt's deposition will take place at the noticed location (Yarmuth Wilsdon's Seattle office) and the depositions of Trader Joe's witnesses and World Class Distribution's witness will take place at the agreed-upon locations (Trader Joe's Monrovia headquarters for Ms. Kendall and Trader Joe's Monrovia headquarters or O'Melveny & Myers LLP's Downtown Los Angeles office for the rest).

3. Trader Joe's will file its motion for preliminary injunction no earlier than June 5, 2017.

4. With respect to Trader Joe's preliminary injunction motion, the page limits shall be as follows: 24 pages for Trader Joe's opening motion, 24 pages for Mr. Hallatt's opposition, and 12 pages for Trader Joe's reply.

5. This Joint Stipulation, and the parties' agreement thereto, may not be used, cited, or relied upon by either party in support of, or in opposition to, any future motion or at trial, including in any discovery motion, *Daubert* motion, motion *in limine*, motion for injunctive relief, Trader Joe's anticipated preliminary injunction motion, or motion for other

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1 relief. In particular, Mr. Hallatt agrees not to contend that Trader Joe's willingness to
2 extend these deadlines is evidence of lack of irreparable harm, that the balance of hardships
3 does not favor entry of a preliminary injunction, or that a preliminary injunction would not
4 serve the public interest.

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6 DATED: May 22, 2017
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9 By /s/ Michal P. Matesky, II
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Attorneys for Plaintiff Trader Joe's Company

ORDER

IT IS SO ORDERED.

DATED: May 23, 2017

Barbara Rothstein

Barbara Jacobs Rothstein
U.S. District Court Judge

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CERTIFICATE OF SERVICE

I hereby certify that on this date I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following counsel of record:

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Dated: May 22, 2017 at Seattle, Washington.

s/Jeremy E. Roller
Jeremy E. Roller

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