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11 *Counsel for Plaintiffs Kelly Ree and Mary Hall*
12 *and Proposed Interim Co-Lead Counsel for the Class*

13 UNITED STATES DISTRICT COURT
14 FOR THE NORTHERN DISTRICT OF CALIFORNIA

15 STACY SCIORTINO and ARIELLE
16 WEINSTOCK,

17 Plaintiffs,

18 v.

19 PEPSICO, INC.,

20 Defendant.

CASE NO. 14-cv-00478-EMC

CLASS ACTION

**STIPULATION AND [~~PROPOSED~~]
ORDER REGARDING
CONSOLIDATING CASES** (except C14-713
and C14-2020)

AND RELATED CASES:

Cortina v. PepsiCo, Case No. 14-2023-EMC
Granados v. PepsiCo, Case No. 14-1316-EMC
Ibusuki v. PepsiCo, Case No. 14-1193-EMC
Ree v. PepsiCo, Case No. 14-1192-EMC
Aourout v. PepsiCo, Case No. 14-1105-EMC
Hall v. PepsiCo, Case, No. 14-1099-EMC
Langley v. PepsiCo, Case No. 14-713-EMC
Riva v. PepsiCo, Case No. 14-2020-EMC

1 WHEREAS, plaintiffs have brought nine consumer class actions on behalf of themselves
2 and a proposed class of persons who bought certain products manufactured by Defendant PepsiCo,
3 Inc. (“Pepsi” or Defendant”) containing 4-methylimidazole (“4-MEI”)¹;

4 WHEREAS, plaintiffs in the nine actions all allege that Pepsi sold products containing 4-
5 MEI in violation of California’s Safe Drinking Water and Toxic Enforcement Act of 1986
6 (“Proposition 65”);

7 WHEREAS, all nine actions filed to date involve common questions of law and fact against
8 the same Defendant, allege similar claims based on the same common conduct, and seek class
9 certification;

10 WHEREAS, the Court has already deemed the nine actions related;²

11 WHEREAS, on June 6, 2014, counsel for Plaintiffs Kelly Ree and Mary Hall filed a Motion
12 for Appointment of Interim Co-Lead Counsel with the support of counsel from seven of the nine
13 actions,³ Docket Entry No. 42;

14 WHEREAS, plaintiffs in seven of the actions (the *Sciortino*, *Cortina*, *Granados*, *Ibusuki*,
15 *Ree*, *Aourout* and *Hall* actions) and Defendant (the “Stipulating Parties”) are in agreement that these
16 cases should be consolidated for all purposes, pursuant to Federal Rule of Civil Procedure 42(a)
17 because these actions all involve common issues of law and fact;

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¹ The nine actions are as follows: *Sciortino v. PepsiCo*, Case No. 14-cv-00478-EMC; *Cortina v. PepsiCo*, Case No. 14-2023-EMC; *Granados v. PepsiCo*, Case No. 14-1316-EMC; *Ibusuki v. PepsiCo*, Case No. 14-1193-EMC; *Ree v. PepsiCo*, Case No. 14-1192-EMC; *Aourout v. PepsiCo*, Case No. 14-1105-EMC; *Hall v. PepsiCo*, Case, No. 14-1099-EMC; *Langley v. PepsiCo*, Case No. 14-713-EMC; *Riva v. PepsiCo*, Case No. 14-2020-EMC.

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² See Docket Entry Nos. 17 (*Langley*), 25 (*Hall*), 27 (*Ree*), 28 (*Ibusuki*), 30 (*Granados*), 37 (*Cortina*), 34 (*Riva*), and 21 (*Aourout*).

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³ The only firms who do not support this motion are The Katriel Law Firm and Krause Kalfayan Benink & Slavens, LLP (counsel in *Riva v. PepsiCo*, Case No. 14-2020-RMC) and The Mehdi Firm (counsel in *Langley v. PepsiCo*, Case No. 14-713-EMC). These firms filed their own motion for appointment of lead counsel.

1 WHEREAS, the Stipulating Parties are also in agreement that the *Riva* and *Langley* actions
2 should be consolidated, even though counsel for *Riva* and *Langley* have not consented to
3 consolidation and therefore are not signatories to this stipulation; and

4 WHEREAS, Defendant agrees to consolidation for pretrial purposes but it expressly
5 reserves all of its objections to class certification, including but not limited to the absence of
6 common questions susceptible to common answers, *see Wal-Mart Stores, Inc. v. Dukes*, 131 S. Ct.
7 2541, 2551, 180 L. Ed. 2d 374 (2011), and that common questions do not predominate over
8 individualized questions, *see Fed. R. Civ. P. 23(b)(3)* and *Comcast Corporation v. Behrend*, 133
9 S. Ct. 1426 (2013).

10 NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED among the
11 Stipulating Parties, through their respective counsel as follows:

12 1. The *Sciortino*, *Cortina*, *Granados*, *Ibusuki*, *Ree*, *Aourout* and *Hall* actions are
13 consolidated for all purposes, pursuant to Federal Rule of Civil Procedure 42(a) (collectively, the
14 “Consolidated Action”).

15 2. Each case that relates to the same subject matter that is subsequently filed in this
16 Court or is transferred to this Court shall be consolidated with the Consolidated Action.

17 3. An original of this Order shall be filed by the Clerk in the Master File.

18 4. Every pleading in the Consolidated Action shall have the caption of the *Sciortino*
19 action.

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21 **IT IS SO STIPULATED**

22 Dated: June 18, 2014

GLANCY BINKOW & GOLDBERG LLP

23
24 By: /s/ Marc L. Godino
25 Marc L. Godino

26 Attorneys for Plaintiff Kelly Ree and Proposed Interim
27 Co-Lead Counsel for the Class

1 Dated: June 18, 2014

PEARSON, SIMON & WARSHAW, LLP

2
3 By: /s/ Daniel L. Warshaw
Daniel L. Warshaw

4
5 Attorneys for Plaintiff Mary Hall and Proposed Interim
Co-Lead Counsel for the Class

6 Dated: June 18, 2014

MARLIN & SALTZMAN

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8 By: /s/ William A. Baird
William A. Baird

9
10 Attorneys for Plaintiffs Stacy Sciortino and Arielle
11 Weinstock

12 Dated: June 18, 2014

LAW OFFICE OF JACK FITZGERALD PC

13
14 By: /s/ John J. Fitzgerald
John J. Fitzgerald

15
16 Attorneys for Plaintiff Tamar Santisteban Cortina

17 Dated: June 18, 2014

TOSTRUD LAW GROUP, PC

18
19 By: /s/ Jon Tostrud
Jon Tostrud

20
21 Attorneys for Plaintiff Williamson Granados

22 Dated: June 18, 2014

KIRTLAND & PACKARD LLP

23
24 By: /s/ Michael Louis Kelly
Michael Louis Kelly

25
26 Attorneys for Plaintiff Kent Ibusuki

1 Dated: June 18, 2014

SEEGER WEISS LLP

2 By: /s/ Jonathan Shub
Jonathan Shub

3
4 Attorneys for Plaintiff Souzan Aourout

5 Dated: June 18, 2014

GIBSON, DUNN & CRUTCHER LLP

6
7 By: /s/ Christopher Chorba
Christopher Chorba

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9 Attorneys for Defendant PepsiCo, Inc.

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11 **FILER'S ATTESTATION**

12 I, Daniel L. Warshaw, am the ECF user whose identification and password are being
13 used to file this **STIPULATION AND [PROPOSED] ORDER REGARDING**
14 **CONSOLIDATING CASES**. I hereby attest that the counsel listed above concur in this
15 filing.
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17 DATED: June 18, 2014

/s/ Daniel L. Warshaw
DANIEL L. WARSHAW

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21 **PURSUANT TO STIPULATION, IT IS SO ORDERED.** All cases are consolidated
22 except for C14-713 EMC and C14-2020 EMC are not consolidated.

23 Dated: June 20, 2014

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25 Honorable Edward M. Chen
United States District Court

