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11 *Counsel for Plaintiffs Kelly Ree and Mary Hall  
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”)<sup>1</sup>;

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;<sup>2</sup>

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,<sup>3</sup> 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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<sup>1</sup> 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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<sup>2</sup> 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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<sup>3</sup> 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

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

6 Dated: June 18, 2014

**MARLIN & SALTZMAN**

7  
8 By: /s/ William A. Baird  
William A. Baird

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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

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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

27  
28 859856.1

1 Dated: June 18, 2014

**SEEGER WEISS LLP**

2 By: /s/ Jonathan Shub  
Jonathan Shub

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4 Attorneys for Plaintiff Souzan Aourout

5 Dated: June 18, 2014

**GIBSON, DUNN & CRUTCHER LLP**

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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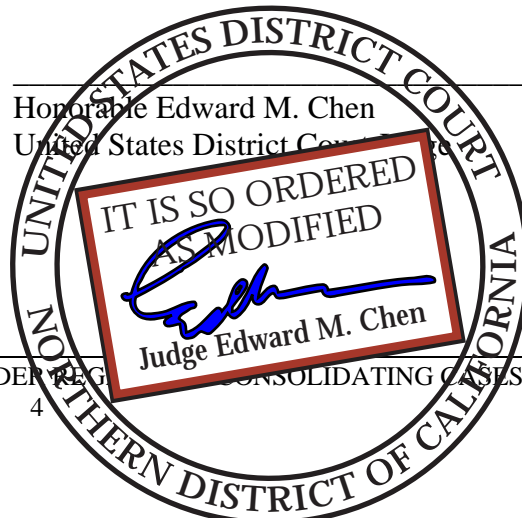
17 DATED: June 18, 2014

/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

24 Honorable Edward M. Chen  
United States District Court



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