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10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION
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14 KYM PARDINI AND CARRIE WOOD, on
behalf of themselves and all others similarly
15 situated,

16 Plaintiffs,

17 v.

18 UNILEVER UNITED STATES, INC., a
Delaware corporation,

19 Defendant.
20

Case No. CV13-1675-JSW

CLASS ACTION

**STIPULATION AND
~~PROPOSED~~ ORDER
EXTENDING STAY**

Judge: Hon. Jeffrey S. White
Action Filed: April 12, 2013

1 Pursuant to Local Rule 7-12, Plaintiffs Kym Pardini and Carrie Wood (“Plaintiffs”) and
2 Defendant Unilever United States, Inc. (“Unilever”) (collectively “the Parties”), by and through
3 their respective counsel of record, agree and stipulate as follows:

4 WHEREAS on April 15, 2015, the Court entered an order staying this case at Plaintiffs’
5 request pending the Ninth Circuit’s decision in *Jones v. ConAgra Foods, Inc.*, No. 12-01633
6 CRB, 2014 WL 2702726 (N.D. Cal. June 13, 2014), appeal docketed, No. 14-16327 (9th Cir.)
7 (Dkt. No. 59);

8 WHEREAS the Court ordered the Parties to file a notice of decision within fourteen days
9 of the Ninth Circuit’s decision in *Jones*;

10 WHEREAS the Ninth Circuit entered an order dismissing the *Jones* appeal with prejudice
11 under Federal Rule of Appellate Procedure 42(b) on August 14, 2017;

12 WHEREAS the Parties filed a notice of decision with the Court in accordance with the
13 Court’s April 15, 2015 Order, and stated that they would provide the Court with the Parties’
14 position on the status of the stay (Dkt. No. 67);

15 WHEREAS the Parties have met and conferred regarding the stay, and agree that the stay
16 should remain in place pending the Supreme Court’s consideration of the writ of certiorari filed in
17 *ConAgra v. Briseno*, No. 16-1221, which addresses the circuit split as to whether ascertainability
18 is a separate requirement for class certification;

19 WHEREAS the Parties agree that a final determination in *Briseno* may affect the way
20 Plaintiff presents, Unilever opposes, and this Court decides any class certification motion;

21 WHEREAS courts have stayed a number of other food misbranding cases pending
22 *Briseno*. See, e.g., *Swearingen v. ConAgra Foods, Inc.*, Case No. 13-cv-05322-VC (N.D. Cal.
23 May 18, 2017) (Dkt. No. 48); *Tye v. Wal-Mart Stores, Inc.*, Case No. SA CV 15-1615-DOC
24 (JCGx) (C.D. Cal. Mar. 7, 2017) (Dkt. No. 67); *Leonhart v. Nature’s Path Foods, Inc.*, No. 13-
25 cv-00492-BLF (N.D. Cal., June 15, 2017) (Dkt. No. 89); *Allen v. ConAgra Foods, Inc.*, No. 13-
26 cv-01279-WHO (N.D. Cal. Aug. 30, 2017) (Dkt. No. 166);

27 WHEREAS the *Briseno* petition is set for conference on September 25, 2017, and the
28 Parties expect a decision on the *Briseno* petition no later than October 2017;

1 WHEREAS in agreeing that the case should be stayed pending the *Briseno* petition, the
2 parties do not waive their right to seek a stay based on other appeals the party contends are
3 relevant to this Court's consideration of class certification and summary judgment standards after
4 *Briseno* is decided;

5 WHEREAS the Parties stipulate that, within fourteen days of the Supreme Court's grant
6 or denial of the *Briseno* petition, the Parties will file a notice indicating: (1) the Supreme Court's
7 decision on the *Briseno* writ; and (2) the Parties' positions with respect to the status of the stay,
8 including whether the stay should be continued pending other appeals relevant to this Court's
9 consideration of class certification and summary judgment;

10 WHEREAS the Parties request the extension of this stay for the purposes of judicial
11 economy to save both the Court's and the Parties' time and resources by avoiding potentially
12 unnecessary briefing on class certification and summary judgment, and do not request the
13 extension for any improper purpose;

14 IT IS HEREBY STIPULATED that, subject to this Court's approval, the stay in this case
15 is continued until any decision from the Supreme Court on the petition for a writ of certiorari in
16 *Briseno*, and that the Parties will file a notice within fourteen days of the Supreme Court's
17 decision in *Briseno* indicating the Supreme Court's decision on the writ and the Parties' position
18 on the status of the stay.

19 IT IS SO STIPULATED.
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Dated: September 11, 2017

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Dated: September 12, 2017

