

1 A. Brooks Gresham (SBN 155954)
2 **McGuireWoods LLP**
3 1800 Century Park East, 8th Floor
4 Los Angeles, CA 90067-1501
5 Telephone: 310.315.8200
6 Facsimile: 310.315.8210
7 bgresham@mcguirewoods.com

8 Joan S. Dinsmore (SBN 245629)
9 **McGuireWoods LLP**
10 434 Fayetteville Street, Suite 2600
11 Raleigh, NC 27601
12 Telephone: 919.755.6693
13 Facsimile: 919.755.6592
14 jdinsmore@mcguirewoods.com

15 *Attorneys for Defendant ConAgra Foods, Inc.*

16 UNITED STATES DISTRICT COURT
17 NORTHERN DISTRICT OF CALIFORNIA
18 SAN FRANCISCO DIVISION

19 ERIN ALLEN, on behalf of herself
20 and all others similarly situated,

21 Plaintiff,

22 vs.

23 CONAGRA FOODS, INC., a Delaware
24 Corporation

25 Defendant.

No. 3:13-CV-01279-WHO

**STIPULATION AND [PROPOSED]
ORDER EXTENDING STAY**

Hon. William H. Orrick

1 Pursuant to Local Rule 7-12, Plaintiff Erin Allen (“Plaintiff”) and Defendant ConAgra
2 Foods, Inc. (“ConAgra”)¹ (collectively “the Parties”), by and through their respective counsel of
3 record, agree and stipulate as follows:

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

7 WHEREAS the Court ordered the Parties to file a notice of decision within fourteen days
8 of the Ninth Circuit’s decision in *Jones* outlining the Parties’ plans and proposed briefing schedule
9 for any class certification motion;

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

12 WHEREAS the Parties previously indicated to the Court that the case of *Briseno v.*
13 *ConAgra Foods, Inc.* may rule on some of the same issues raised in *Jones*;

14 WHEREAS the Ninth Circuit issued its opinions in *Briseno*, *see* 844 F.3d 1121 (9th Cir.
15 2017); No. 15-55727, 2017 WL 53421 (9th Cir. Jan. 3, 2017) (unpublished);

16 WHEREAS *Briseno* appellant ConAgra filed its petition for a writ of certiorari with the
17 Supreme Court of the United States on April 10, 2017;

18 WHEREAS the Ninth Circuit has stayed issuance of its mandate in *Briseno* pending final
19 disposition of appellant’s petition for a writ of certiorari with the Supreme Court;

20 WHEREAS a final determination in *Briseno* may affect the way Plaintiff presents,
21 Defendant opposes, and this Court decides any class certification motion;

22 WHEREAS a number of other cases are stayed pending *Briseno*, *see, e.g., Swearingen v.*
23 *ConAgra Foods, Inc.*, Case No. 13-cv-05322-CV (N.D. Cal.); *Tye v. Wal-Mart Stores, Inc.*, Case
24 No. SA CV 15-1615-DOC (JCGx) (C.D. Cal.);

25 WHEREAS the Parties expect a decision on the petition no later than October 2017;

26
27 ¹ In November 2016, ConAgra Foods, Inc. changed its corporate name to Conagra Brands,
28 Inc.

1 WHEREAS the Parties request that the stay in this case remain in effect pending the
2 Supreme Court's decision on the petition for writ of certiorari in *Briseno*;

3 WHEREAS the Parties stipulate that they will file a notice of decision outlining either (1)
4 the Parties' plans with respect to any motion for class certification and, if appropriate, a briefing
5 schedule for that motion or (2) request to continue the stay within fourteen days of the Supreme
6 Court's grant or denial of certiorari in *Briseno*;

7 WHEREAS the Parties request the extension of this stay for the purposes of judicial
8 economy to save both the Court's and the Parties' time and resources to avoid, among other
9 things, potentially engaging in unnecessary briefing on class certification and do not request the
10 extension for any improper purpose;

11 IT IS HEREBY STIPULATED that subject to this Court's approval, the stay in this case is
12 continued until any decision from the Supreme Court on the petition for a writ of certiorari in
13 *Briseno*.

14 IT IS SO STIPULATED.

15 DATED: August 28, 2017

16 Respectfully submitted,

17 McGUIREWOODS LLP

18 /s/ Angela M. Spivey

19 Angela M. Spivey (admitted *pro hac vice*)

20 aspivey@mcguirewoods.com

21 McGUIREWOODS LLP

22 1230 Peachtree Street, NE

23 Promenade, Suite 2100

24 Atlanta, GA 30309-3534

25 Telephone: 404.443.5720

26 Facsimile: 404.443.5792

27 A. Brooks Gresham (SBN 155954)

28 bgresham@mcguirewoods.com

McGUIREWOODS LLP

1800 Century Park East, 8th Floor

Los Angeles, CA 90067

Telephone: 310.315.8291

Facsimile: 310.315.8210

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Joan S. Dinsmore (SBN 245629)
jdinsmore@mcguirewoods.com
McGUIREWOODS LLP
434 Fayetteville Street, Suite 2600
Raleigh, NC 27601
Telephone: 919.755.6693
Facsimile: 919.755.6592

R. Trent Taylor (admitted *pro hac vice*)
rtaylor@mcguirewoods.com
MCGUIREWOODS LLP
800 East Canal Street
Richmond, VA 23219
Telephone: 804.775.1182
Facsimile: 804.225.5409

Attorneys for ConAgra Foods, Inc.

/s/ Ureka Idstrom
Ureka Ellie Idstrom (admitted *pro hac vice*)
idstrom@eurekalawfirm.com
THE EUREKA LAW FIRM
5606 Belinder Road
Fairway, KS 66205
Telephone: 816.665.3515

Christopher R. Pitoun (SBN 290235)
christopherp@hbsslw.com
HAGENS BERMAN SOBOL SHAPIRO LLP
301 North Lake Avenue, Suite 920
Telephone: 213.330.7150
Facsimile: 213.330.7152

Steve W. Berman (admitted *pro hac vice*)
steve@hbsslw.com
HAGENS BERMAN SOBOL SHAPIRO LLP
1918 Eighth Avenue, Suite 3300
Seattle, WA 98101
Telephone: 206.623.7292
Facsimile: 206.623.0594

Jeff D. Friedman (SBN 173886)
jefff@hbsslw.com
Shana E. Scarlett (SBN 217895)
shanas@hbsslw.com
HAGENS BERMAN SOBOL SHAPIRO LLP
715 Hearst Avenue, Suite 202
Berkeley, CA 94710

Telephone: 510.725.3000
Facsimile: 510.725.3001

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ATTESTATION

I, Angela M. Spivey, hereby attest, pursuant to N.D. Cal. Local Rule 5.1(i)(3), that the concurrence to the filing of this document has been obtained from each signatory hereto.

/s/ Angela M. Spivey _____
Angela M. Spivey

1 **PURSUANT TO STIPULATION, IT IS SO ORDERED.** The stay in this case is
2 continued until any decision from the Supreme Court on the petition for a writ of certiorari in
3 *Briseno*. The Parties will file a notice of decision outlining the Parties’ plans with respect to any
4 motion for class certification and, if appropriate, a briefing schedule for that motion within
5 fourteen days of the Supreme Court’s grant or denial of certiorari in *Briseno*.

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7 DATED: _____
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9 United States District Judge
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