

Honorable Ronald B. Leighton

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT TACOMA

PATTY THOMAS, JENNIFER DOWLING,
KELLY DYE, JR., ROBERT GIBSON,
LAURA WISBY, DAVID RINK, JUDY
BRASHEAR, DAVID MASTENBROOK,
ARMOND MCWELL, SOLIMAN SAYEDI,
and BRUCE JOHNSON, individually and on
behalf of all other similarly situated persons,

Plaintiffs,

v.

KELLOGG COMPANY and KELLOGG
SALES COMPANY,

Defendants.

CASE NO.: 3:13-cv-05136-RBL

**STIPULATED MOTION TO STAY CASE
PENDING MEDIATION AND
CONTINUE COURT DEADLINES FOR
ADDITIONAL TWO WEEKS and
ORDER**

Plaintiffs and Defendants Kellogg Company and Kellogg Sales Company (Defendants are collectively referred to as “Kellogg”) file this Stipulated Motion, asking the Court to enter an order, staying this case, including compliance with any pending deadlines, in order for the Parties to conduct a third mediation, which is scheduled to occur on Saturday, February 27, 2016 in Philadelphia, Pennsylvania. In light of the requested stay, the Parties also request that the Court extend the various case deadlines set by the Court in its January in its Order dated January 19, 2016 (Doc. 339) for a period of an additional two weeks.

1 **I. GOOD CAUSE EXISTS FOR GRANTING THE PARTIES' STIPULATED**
 2 **MOTION.**

3 The parties aver that good cause exists for the relief sought in this Stipulated Motion.
 4 Specifically, the Parties have agreed to mediate this case for a third day on February 27, 2016 in
 5 Philadelphia, PA, before former United States Magistrate Judge Diane M. Welsh, who is now
 6 affiliated with JAMS. The Parties participated in mediation on February 13, 2016 and believe that
 7 they made significant progress. Although a settlement was not reached, at the conclusion of the
 8 day the Parties agreed that a third day of mediation was warranted. United States Magistrate Judge
 9 Diane M. Welsh agreed and offered Saturday, February 27, 2016.

10 As the Court is well aware, the Parties have been engaged in extensive discovery, and such
 11 discovery has been both time-consuming and expensive. In light of the Parties' agreed upon desire
 12 to continue mediation, the extensive discovery obligations attendant on all Parties have caused
 13 them to agree that it is more cost effective, productive and efficient to briefly stay the case during
 14 the period leading up to the February 27, 2016 mediation.

15 **II. REQUESTED DISCOVERY & MOTION DEADLINES IN LIGHT OF JOINT**
 16 **STIPULATION REQUESTING STAY.**

17 In light of the above, the Parties propose the Court's deadlines in this case, entered via its
 18 February 2, 2016 Order (Doc. 342), be revised and extended for an additional two-weeks, as
 19 follows:

Issue/Deadline	Parties' Agreed Upon Position
Plaintiffs' Deadline to Respond to Kellogg's Discovery Demands Pursuant to Court's Order (Doc. 338)	March 15, 2016
Identify Affirmative Experts (for certification and merits issues only)	April 4, 2016
Initial Affirmative Expert Reports Due (for certification and merits issues only)	April 4, 2016
Fact Discovery Deadline	May 2, 2016
Identify Rebuttal Expert and Rebuttal Expert Reports Due	May 2, 2016

Expert Discovery Deadline (for certification and merits issues only)	May 30, 2016

III. DISPOSITIVE MOTION AND CERTIFICATION DEADLINES.

In light of the agreed upon stay, the parties also agree with respect to the briefing schedule for summary judgment motions, Plaintiffs' motion for Rule 23 class certification, and Kellogg's motion to decertify the Fair Labor Standards Act ("FLSA") collective action. They propose that all such motions be filed by **June 3, 2016**, thirty-two (32) days after the close of fact discovery. They agree that oppositions to such motions should be due twenty-eight (28) days later, on **July 1, 2016**, and that replies related to such motions should be due twenty-one (21) days after that, on **July 22, 2016**.

Upon receipt of the Court's ruling on the various motions, the parties will meet and confer regarding designation and deposition of any damage-related experts. The parties will submit a joint proposed stipulation and order regarding deadlines for completing such expert testimony in ample time for trial. The parties cannot reasonably estimate at this stage the number of trial days needed to adjudicate the issues in this case because any such estimate is dependent on how the Court rules on dispositive motions and class certification. Should the case proceed to trial in its current form, Plaintiffs anticipate that a trial could be completed in 3 weeks. Defendants, on the other hand, anticipate that should all of the state law classes remain in the case, trial will take 4 full weeks.

IV. CONCLUSION.

WHEREFORE, the parties ask the Court enter an order agreeing to stay this case pending mediation on February 27, 2016, and simultaneously extending the extant deadlines in the case for a period of an additional two weeks, thereby re-setting the various remaining deadlines as proposed above.

1 DATED: February 16, 2016

s/ James N. Nelson
JAMES NELSON, WSBA No. 44652
GREENBERG TRAUIG, LLP
1201 K Street, Suite 1100
Sacramento, CA 95814
Telephone: (916) 442-1111
Fax: (916) 448-1709
nelsonj@gtlaw.com

JAMES N. BOUDREAU, *pro hac vice*
GREENBERG TRAUIG, LLP
2700 Two Commerce Square
2001 Market Street
Philadelphia, PA 19103
Telephone: (215) 988-7833
Fax: (215) 988-7801
boudreauj@gtlaw.com

Attorneys for Defendants

12 DATED: February 16, 2016

s/ Matt Dunn
MATT DUNN, *pro hac vice*
DAN GETMAN, *pro hac vice*
Getman & Sweeney, PLLC
9 Paradies Lane
New Paltz, NY 12561
Telephone: (845) 255-9370
Fax: (845) 255-8649
dgetman@getmansweeney.com
mdunn@getmansweeney.com

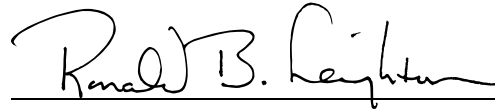
MICHAEL C. SUBIT, WSBA No. 29189
Frank Freed Subit & Thomas
Suite 1200
Hoge Building
705 Second Avenue
Seattle, WA 98104-1729
Telephone: (206) 682-6711
Fax: (206) 682-0401
msubit@frankfreed.com

Attorneys for Plaintiffs

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IT IS SO ORDERED.

DATED: February 18, 2016



Ronald B. Leighton
United States District Judge