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Attorneys for Defendant
US FOODS, INC.

Additional Counsel Listed Below Caption

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

STEVEN THOMAS ATTEBERY on behalf of himself and others similarly situated,

Plaintiff,

v.

US FOODS, INC. d/b/a/ US FOODSERVICE, INC., a Delaware corporation; and DOES 1 through 50, inclusive,

Defendants.

Case No. 1:22-CV-01352-JLT-BAM

STIPULATION AND ~~[PROPOSED]~~ ORDER TO CONTINUE SCHEDULING CONFERENCE

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

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Attorneys for Plaintiff

STEVEN THOMAS ATTEBERY

The Stipulation is entered into by Plaintiff Steven Thomas Attebery and Defendant US Foods, Inc., through their respective attorneys of record.

WHEREAS, on October 21, 2022, the Court set a Mandatory Scheduling Conference for January 25, 2023 (Dkt. No. 3);

WHEREAS, on October 27, 2022, US Foods filed its Motion to Dismiss and/or Stay the Action on the grounds that Plaintiff's action is subsumed by two earlier-filed California wage-and-hour class action lawsuits against US Foods and Plaintiff's only non-duplicative claim for alleged violations under Labor Code section 204 and 210 fails to state a claim (Dkt. No. 5);

WHEREAS, on November 10, 2022, Plaintiff filed his Motion to Remand the case on the grounds that this Court lacks subject matter jurisdiction under the Class Action Fairness Act of 2005 (Dkt. No. 7);

WHEREAS, on December 21, 2022, the Court continued the January 25, 2023 Scheduling Conference to May 25, 2023 due to the pending Motion to Dismiss and/or Stay and Motion to Remand (Dkt. No. 11);

WHEREAS, the Motion to Dismiss and/or Stay and Motion to Remand is currently still pending with the Court, and the Parties have met and conferred and agreed, that a ruling by the Court on either motion may moot the need for a Scheduling Conference. The Parties have also agreed, subject to approval of the Court, to continue the Scheduling Conference until August 25, 2023, or the Court's next available date thereafter;

IT IS HEREBY STIPULATED, by and between Plaintiff and US Foods that the May 25, 2023 Scheduling Conference be continued to August 25, 2023 at 9:00 a.m. in Courtroom 8 before Magistrate Judge Barbara A. McAuliffe.

Dated: May 3, 2023

ORRICK, HERRINGTON & SUTCLIFFE LLP

By: */s/ Annie H. Chen*
JOSEPH C. LIBURT
ANNIE H. CHEN
Attorneys for Defendant
US FOODS, INC.

Dated: May 3, 2023

JAMES HAWKINS APLC

By: */s/ Anthony L. Draper* (as authorized on May 3, 2023)
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STEVEN THOMAS ATTEBERY

ORDER

Plaintiff Steven Thomas Attebery and Defendant US Foods, Inc. (collectively the "Parties"), through their respective counsel, have stipulated to continue the Scheduling Conference. Based on the Parties' stipulation and good cause appearing, the Scheduling Conference in this action is continued to **August 30, 2023, at 9:00 a.m. in Courtroom 8 (BAM) before Magistrate Judge Barbara A. McAuliffe**. The parties shall file a Joint Scheduling Report at least one (1) full week prior to the conference.

IT IS SO ORDERED.

Dated: **May 4, 2023**

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE