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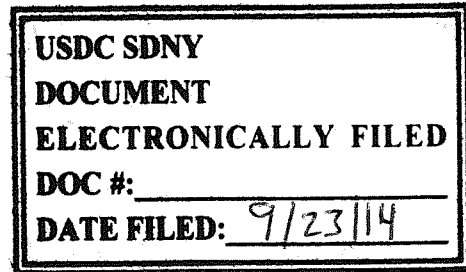
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September 23, 2014

VIA ECF AND E-MAIL (torres_nysdchambers@nysd.courts.gov)

Hon. Analisa Torres, U.S.D.J.
U.S. Courthouse
500 Pearl St.
Courtroom 15D
New York, NY 10007



Re: *Schear et al. v. Food Scope America et al.*, 12 CV 0594 (AT)

Dear Judge Torres,

We represent Plaintiffs and the class in the above-captioned matter. We write to respectfully request that the Court Order Defendants to finalize/execute a Settlement Agreement on or before October 6, 2013, and if unable to do so, to cooperate with Plaintiffs in drafting a Joint Pretrial Order for submission on or before November 17, 2014.

In June 2014, this Court scheduled a jury trial to commence on October 1, 2014. On July 10, 2014, the Parties reached a class-wide settlement in principle with the assistance of Magistrate Judge Gorenstein. On July 15, 2014, pursuant to the parties' agreement, Plaintiffs sent Defendants a draft class-action settlement agreement. Of course, the settlement agreement would ultimately be subject to the Court's approval. For the following two weeks, counsel for Plaintiffs and Defendants negotiated several outstanding terms of the agreement that were not covered during the settlement discussions with Judge Gorenstein. Thereafter on July 25, 2014, Plaintiffs sent Defendants' counsel a "final version" of the agreement. That same day, Defendants' counsel represented that he would send the agreement to his clients, and that he was "pretty certain they will have no problems" with it.

Nearly two months have passed since Plaintiffs provided Defendants with a "final version" of the agreement. Defendants have inexplicably failed to execute the settlement agreement, despite Plaintiffs' Counsel's repeated attempts to move the settlement process along. To be sure, in response to Plaintiffs' repeated requests for an update as to the status of the settlement agreement, Defendants' Counsel emailed me on August 25, 2014 to inform me that "[he doesn't] expect any changes from the client - just approval" of the settlement agreement. Defendants also refused to engage in the process of drafting a Joint Pretrial Order, insisting that the case was settled, and that they were in the process of finalizing the agreement.

Plaintiffs have already been unduly prejudiced by Defendants' dilatory behavior in having lost their original trial date of October 1, 2014. Plaintiffs are amenable to the originally agreed upon settlement and the terms they set forth in the proposed settlement agreement, to which Defendants have to date made no objections. However, if Defendants are unwilling to execute the agreement within a reasonable time frame, Plaintiffs wish to move this case forward to trial.

Accordingly, Plaintiffs respectfully request that Your Honor Order that either (a) Defendants execute the agreement by October 6, 2014, or (b) the settlement reached before Judge Gorenstein be deemed void and the Parties be required to work together and submit a Joint Pretrial Order on or before November 17, 2014.

Respectfully submitted,


s/D. Maimon Kirschenbaum/
D. Maimon Kirschenbaum

Cc: Andrew Marks, Esq. (via ECF)
Christine L. Hogan, Esq. (via ECF)

Defendants are ORDERED to execute the settlement agreement by October 6, 2014, or, if settlement is not reached, the parties shall submit their joint pre-trial order by November 17, 2014.

SO ORDERED.

Dated: September 23, 2014
New York, NY



ANALISA TORRES
United States District Judge