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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MARY SWEARINGEN, *et al.*,

No. C-13-4385 EMC

Plaintiffs,

v.

**ORDER REGARDING FOOD AND
DRUG ADMINISTRATION ACTION
AND REFERRAL TO COMMISSIONER**

HEALTHY BEVERAGE, LLC, *et al.*,

Defendants.

_____ /


This case has been stayed since June 11, 2014, pending the FDA’s decision after it reopened the comment period regarding whether “evaporated cane juice” (ECJ) is a common or usual name for sugar. *See* Docket No. 69. Pursuant to 21 C.F.R. section 10.25(c), this Court requests the Commissioner to inform the Court whether a final determination regarding ECJ “is feasible within agency priorities and resources.” *See* 21 C.F.R. § 10.25(c) (providing that the “Commissioner will institute a proceeding to determine whether to . . . tak[e] any [] form of administrative action” while this court “holds in abeyance” its proceedings if the “Commissioner concludes that an administrative determination is feasible within agency priorities and resources”). In particular, the Court would like to know if the FDA is likely to issue any further guidance regarding ECJ within the next 180

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1 days. Plaintiffs are directed to serve a copy of this Order on the Commissioner of the FDA within
2 fourteen (14) days of the date of this order. Plaintiffs are also directed to file a proof of service after
3 serving the Commissioner.

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5 IT IS SO ORDERED.

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7 Dated: May 15, 2015

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9 EDWARD M. CHEN
United States District Judge