
From: Regina Mundekis <reggie_mundekis@me.com>
Sent: Wednesday, January 26, 2022 12:01 PM
To: Ashleigh Aitken Board (aaitken@ocfairboard.com); Barbara Bagneris; Sandra Cervantes; Natalie Rubalcava-Garcia; npham@ocfairboard.com; dlabelle@ocfairboard.com; Robert Ruiz; nkovacevich@ocfairboard.com; mrafiei@ocfairboard.com; Michele Richards
Subject: January 2022 Board Meeting, Agenda Item 8B - Amendment to Ovations/Spectra Contract
Attachments: 26-1 Proposed Settlement.pdf; No Bid Extension.pdf

Dear Board and CEO,

There are documents which contradict claims that the contract amendment is needed to give a no-bid contract extension into 2025.

It should be noted that believing assertions made that the contract amendment is needed because some one has just noticed the contract expires during the 2024 OC Fair implies that staff and Board are not paying attention to what is going on, at best. If this is a true story, and that is a stretch, the proper remedy is to draft an RFP for a new master concessionaire contract to be issued during 2023 or early 2024 while amending the master concessionaire contract to end in the fall of 2024, after the 2024 OC Fair. An extension into 2025 is just not needed as there is more than adequate time for an RFP process prior to the 2024 OC Fair. These assertions are give rise to questions about why other 32nd DAA contracts were not given no-bid extensions into 2025.

What seems to be closer to the truth is that this contract extension is a settlement of the litigation over closure of the OC Market Place by Ovations/Spectra. Spectra stated they wanted a no-bid extension of the master concessionaire contract in February 2020. (See attached *No Bid Extension*) During December 2021, Deputy Attorney General Josh Caplan stated in his declaration that a mediator had been engaged for settlement talks and led to a successful settlement, with the settlement to be approved by the Board during the December 2021 or January 2022 meeting. (See attached *26-1 Proposed Settlement*)

With that said, being truthful with the public goes a long way. Continuing to make less than truthful representations regarding this matter does not build public trust and support of the Board and staff.

Thank you for your interest in this matter,

Reggie Mundekis

1 ROB BONTA
Attorney General of California
2 MICHAEL P. CAYABAN
Supervising Deputy Attorney General
3 JOSHUA M. CAPLAN (SBN 245469)
STEPHEN A. SUNSERI (SBN 207030)
4 Deputy Attorney General
600 West Broadway, Suite 1800
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 738-9625
7 Fax: (619) 645-2271
E-mail: Josh.Caplan@doj.ca.gov
8 *Attorneys for Plaintiff and Counter Defendant*
9 *32nd District Agricultural Association*

10
11 IN THE UNITED STATES DISTRICT COURT
12 FOR THE CENTRAL DISTRICT OF CALIFORNIA

13 **32nd DISTRICT AGRICULTURAL**
14 **ASSOCIATION, a California State**
15 **Institution,**

16 Plaintiff,

17 v.

18 **OVATIONS FANFARE, L.P., a**
19 **Pennsylvania Limited Partnership,**
20 **dba SPECTRA FOOD SERVICE**
21 **AND HOSPITALITY, an entity of**
22 **unknown form and DOES 1-20,**
23 **inclusive,**

24 Defendant.

25 **AND COUNTER CLAIMS.**
26
27
28

8:20-cv-02049-CJC-JDE

DECLARATION OF JOSHUA M. CAPLAN IN SUPPORT OF JOINT STIPULATION TO VACATE SCHEDULING ORDER (ECF 20) DATES DUE TO NOTICE OF SETTLEMENT

Courtroom: 9B

Judge: Honorable Cormac J. Carney

Trial Date: March 29, 2022

Action Filed: September 23, 2020

Counterclaim Filed: November 13, 2020

DECLARATION OF JOSHUA M. CAPLAN

I, Joshua M. Caplan, declare as follows:

1. I am an attorney duly admitted to practice law before this court and a Deputy Attorney General, counsel of record for the Plaintiff 32nd District Agricultural Association (“District”) in the above-captioned action. I have personal knowledge of the facts set forth in this declaration and, if called as a witness, could and would testify competently to such facts.

2. The District and Defendant Ovations Fanfare, L.P. d/b/a Spectra Food Service and Hospitality (“Spectra”) are collectively referred to as the “Parties.”

3. I make this declaration in support of the Parties’ Notice of Conditional Settlement and Joint Stipulated Request to Vacate the Scheduling Order (ECF 20) Dates.

4. On January 15, 2021, the Court entered a Scheduling Order that, among other deadlines, set deadlines for discovery and the discovery motion cut-off (November 12, 2021), the non-discovery motion cut-off (January 24, 2022), a pre-trial conference (March 21, 2022), and a jury trial (March 29, 2022).

5. Shortly after the Scheduling Order was issued, the Parties promptly began serving written discovery on one another, and responses were timely exchanged. The parties have not engaged in any delay in this case.

6. Concurrently, the Parties engaged in significant and meaningful settlement discussions to resolve this case. The Parties selected and retained the Honorable Nancy Wieben Stock (Ret.) of JAMS to conduct a private mediation, which occurred on April 30, 2021. No settlement was reached at mediation.

7. Following mediation, however, settlement discussions continued in good faith and with the assistance of Judge Stock. On November 12, 2021 (the last day of fact discovery) Judge Stock issued to both sides a double-blind mediator’s proposal to resolve all claims and counterclaims.

1 8. On November 15, 2021, the mediator's proposal was accepted by both
 2 the District and Spectra; however, key terms of the settlement are expressly
 3 conditioned upon events. That is purpose of the Parties' joint request to vacate the
 4 current Scheduling Order dates.

5 9. Specifically, the settlement is conditioned upon execution of a
 6 mutually agreeable, formal settlement agreement, and also conditioned upon final
 7 approval by Plaintiff, a public State institution, governed by a Board of Directors
 8 ("Board"). The Board meets once a month and anticipates conducting its public
 9 meetings to consider approving the settlement conditions during its December 2021
 10 meeting and January 2022 Board meetings.

11 10. Because consideration by the Board could take up to sixty (60) days to
 12 occur, that time frame overlaps with at least one date in the Court's Scheduling
 13 Order (non-discovery motion deadline of January 24, 2022). As a result, the Parties
 14 jointly request the Court to vacate all proceedings scheduled in the present matter
 15 and set a status conference for March 2022. In the unlikely event that the Board
 16 does not approve the settlement by then, the Parties will be prepared to discuss
 17 rescheduled dates at the status conference. Likewise, if the Board approves the
 18 settlement, the parties will file a Stipulation of Dismissal pursuant to Fed. R. Civ. P.
 19 41(a)(1)(A)(ii) before the scheduled status conference and request a dismissal of the
 20 entire action with prejudice.

21 11. The Parties believe that the foregoing reasons constitute good cause
 22 for vacating the current Scheduling Order dates, and for scheduling a status
 23 conference in March 2022.

24 I declare under penalty of perjury under the laws of the United States of
 25 America that the foregoing is true and correct. Executed December 6, 2021 in San
 26 Diego County, California.

27 Joshua
 28 Caplan

Digitally signed by Joshua
 Caplan
 Date: 2021.12.06
 15:02:24 -08'00'

Joshua M. Caplan

CERTIFICATE OF SERVICE

Case **32nd DAA v. Spectra Food** No. **8:20-cv-02049-CJC-JDE**
Name: **Service & Hospitality** _____

I hereby certify that on December 7, 2021, I electronically filed the following documents with the Clerk of the Court by using the CM/ECF system:

**DECLARATION OF JOSHUA M. CAPLAN IN SUPPORT OF JOINT
STIPULATION TO VACATE SCHEDULING ORDER (ECF 20) DATES
DUE TO NOTICE OF SETTLEMENT**

I certify that **all** participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

I declare under penalty of perjury under the laws of the State of California and the United States of America the foregoing is true and correct and that this declaration was executed on December 7, 2021, at San Diego, California.

K. Towne
Declarant

K. Towne
Signature

From: Ken Karns
Sent: Wednesday, February 26, 2020 2:35 PM
To: 'Nicora, Nick'; Neary, Charlie; Doug Lofstrom
Cc: Michele Richards
Subject: RE: Market Place Initiative

We do not have a conflict, Doug and I have just spoken. All is good.

Any initiatives related to FMD will have to be worked out between you two and likely on a different day/time.

Thanks,
Ken

Ken Karns - CFE
Chief Operating Officer
Direct Line: (714) 708-1552
Cell: (714) 380-1218



From: Nicora, Nick [<mailto:Nick.Nicora@spectraxy.com>]
Sent: Wednesday, February 26, 2020 2:33 PM
To: Neary, Charlie; Ken Karns; Doug Lofstrom
Cc: Michele Richards
Subject: RE: Market Place Initiative

Adding Doug to this He is saying there is a conflict on those dates That being said I think we are talking two meeting I do not believe we want to talk driving Miss daisy and possible car sales with a board committee. I would think the conversation with the committee would be about our proposal last June or contract extension with major capital to OCMP I am good either way though

Nick

From: Neary, Charlie
Sent: Wednesday, February 26, 2020 2:29 PM
To: Nicora, Nick ; Ken Karns
Cc: Michele Richards
Subject: RE: Market Place Initiative

How does Monday, March 23rd at 4:00 PM work for everyone?

CHARLIE NEARY
Senior Vice President, West
Food Services & Hospitality
O: 925.426.5128 M: 925.683.1400
Charlie.Neary@Spectraxy.com
4501 Pleasanton Ave., Pleasanton, CA 94566
SpectraExperiences.com

From: Nicora, Nick <Nick.Nicora@spectrarp.com>
Sent: Tuesday, February 25, 2020 5:05 PM
To: Ken Karns <KKarns@ocfair.com>; Neary, Charlie <Charlie.Neary@spectrarp.com>
Cc: Michele Richards <MRichards@ocfair.com>
Subject: Re: Market Place Initiative

I'm the same ag day state capitol 17th 18th. let go for the 23rd

Get [Outlook for Android](#)

From: Neary, Charlie <Charlie.Neary@spectrarp.com>
Sent: Tuesday, February 25, 2020 4:29:25 PM
To: Ken Karns <KKarns@ocfair.com>; Nicora, Nick <Nick.Nicora@spectrarp.com>
Cc: Michele Richards <MRichards@ocfair.com>
Subject: Re: Market Place Initiative

I am not available on the 16th or 17th but can make either of the other two dates suggested.

Get [Outlook for iOS](#)

From: Ken Karns <KKarns@ocfair.com>
Sent: Tuesday, February 25, 2020 4:19:05 PM
To: Nicora, Nick <Nick.Nicora@spectrarp.com>
Cc: Michele Richards <MRichards@ocfair.com>; Neary, Charlie <Charlie.Neary@spectrarp.com>
Subject: Market Place Initiative

CAUTION: This email originated from outside the organization, please proceed with caution.

Nick,

We would like to set up a meeting with Spectra Executive (Nick, Charlie) with our Facilities Board Committee, Director Aitken and Director Rubalcava-Garcia along with Michele and myself, to discuss the Market Place initiative.

We prefer to get around the table for a face to face meeting, with that we do know how difficult it can be to coordinate schedules.

We are open to an afternoon or evening meeting to accommodate travel and the work commitments of our Board members.

Currently suggesting the following dates/times for your consideration;

Monday March 16th afternoon or evening
Tuesday March 17th afternoon or evening
Monday March 23rd evening
Tuesday March 24th evening

Please let me know if any of that can work for you, or if you have alternative dates that could work better.

We will reach out to the Board committee once we have a couple of viable options for them.

Thank you.

Sincerely,

Ken Karns - CFE

Chief Operating Officer

Direct Line: (714) 708-1552

Cell: (714) 380-1218

