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*Counsel for Defendant Nestlé Healthcare  
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17 UNITED STATES DISTRICT COURT  
18 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
19 SAN FRANCISCO DIVISION

20 IN RE: NESTLÉ BOOST NUTRITIONAL  
21 DRINK LITIGATION

Case No. 3:21-cv-09812-JSC

**STIPULATION AND ~~PROPOSED~~ ORDER  
TO WITHDRAW PLAINTIFFS' MOTION  
FOR CLASS CERTIFICATION AND  
DISMISS ALL CLAIMS**

Date Action Filed: December 20, 2021

1 Plaintiffs Bruce Horti, Steven Owen, and Sandra George (“Plaintiffs”) and Defendant Nestlé  
2 Healthcare Nutrition, Inc. (together with Plaintiffs, the “Parties”), by and through their respective  
3 counsel of record, hereby stipulate as follows:

4 WHEREAS, Plaintiffs filed a consolidated complaint on February 29, 2024 (Dkt. 59);

5 WHEREAS, Defendant filed an answer to the consolidated complaint on March 21, 2024,  
6 denying all claims and denying all liability (Dkt. 63);

7 WHEREAS, following Defendant’s motion for summary judgment as to Plaintiffs’ individual  
8 claims (Dkt. 83), the Court entered summary judgment as to the claims brought by Sanda George  
9 (Dkt. 96), but has not yet directed entry of final judgment, *see* Fed. R. Civ. P. 54(b);

10 WHEREAS, Plaintiffs filed a motion for class certification on July 25, 2025 (Dkt. 105), which  
11 Defendant opposed (Dkt. 117);

12 WHEREAS, the Court has scheduled a March 19, 2026 hearing on Plaintiffs’ motion for class  
13 certification but has not yet issued an order resolving that motion;

14 WHEREAS, the Parties have reached an agreement to resolve all of Plaintiffs’ individual  
15 claims;

16 NOW, THEREFORE, the Parties, by and through their respective counsel of record, hereby  
17 stipulate and agree, subject to Court approval, that:

- 18 1. Plaintiffs withdraw their pending motion for class certification (Dkt. 105);
- 19 2. Pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii), Plaintiffs’ claims are to be  
20 dismissed with prejudice as to their individual claims and without prejudice as to any future  
21 claims brought by other members of the putative class; and
- 22 3. Except as provided by the Parties’ agreement, each party to bear its own costs, fees, and  
23 expenses.

24  
25 Dated: March 11, 2026

Respectfully submitted,

26 By: /s/ Timothy W. Loose  
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*Attorneys for Defendant Nestlé Healthcare  
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Dated: March 11, 2026

Respectfully submitted,

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Dated: March 11, 2026

Respectfully submitted,

By: /s/ Laurence D. King  
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*Co-Lead Interim Counsel for Plaintiffs and the Proposed Class*

**E-FILING ATTESTATION**

I, Trenton R. Kashima, am the ECF User whose ID and password are being used to file this document. In compliance with Civil Local Rule 5-1(i)(3), I hereby attest that each of the signatories identified above has concurred in this filing.

By: /s/ Trenton R. Kashima

~~PROPOSED~~ ORDER

Pursuant to the parties’ stipulation, and good cause appearing, the Court orders that:

- 1. Plaintiffs’ pending motion for class certification (Dkt. 105) is hereby denied as moot;
- 2. All other existing dates and deadlines are hereby vacated;
- 3. Plaintiffs’ claims are dismissed with prejudice as to their individual claims and without prejudice as to any future claims brought by other members of the putative class; and
- 4. The Clerk of Court is directed to terminate and close this matter.

**IT IS SO ORDERED.**

Dated: March 12, 2026



Hon. Jacqueline Scott Corley

United States District Judge