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13 ORCHARD SUPPLY HARDWARE CORPORATION

14 **UNITED STATES DISTRICT COURT**
15 **EASTERN DISTRICT OF CALIFORNIA**

16
17 DANIEL DELGADO,

18 Plaintiff,

19 vs.

20 ORCHARD SUPPLY HARDWARE
21 CORPORATION,

22 Defendant.

) No. 1:09-CV-01839-LJO-SKO

) **STIPULATION TO EXTEND**
) **DATES SET IN SCHEDULING**
) **ORDER; ORDER; DECLARATION**
) **OF TANYA E. MOORE;**
) **DECLARATION OF MATTHEW R.**
) **ORR**

) Complaint Filed October 20, 2009

) Trial Date: May 16, 2011

23
24
25 Plaintiff Daniel Delgado (“Plaintiff”) and Orchard Supply Hardware
26 Corporation (“Defendant” and, together with Plaintiff, the “Parties”), through
27 their attorneys of record, hereby stipulate and agree as follows:

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Delgado v. Orchard Supply Hardware Corp.
Stipulation to Extend Dates; [Proposed] Order

1 **WHEREAS**, Plaintiff seeks to file a Second Amended Complaint
2 (“SAC”) to address recent facts and legal precedents that have only recently
3 been discovered by Plaintiff;

4 **WHEREAS**, this Court filed its scheduling order in this matter on June
5 15, 2010, which set the following deadlines:

- 6 • Non-expert discovery cut-off February 1, 2011; and
- 7 • Expert discovery cut-off February 15, 2011; and
- 8 • Deadline for filing non-dispositive motions February 17, 2011; and
- 9 • Deadline for filing dispositive motions February 17, 2011; and
- 10 • Pre-trial conference April 5, 2011; and
- 11 • Trial May 16, 2011.

12 **WHEREAS**, the Parties have been diligently undertaking to complete
13 discovery, having taken the depositions of both parties, exchanged expert
14 reports, conducted a site inspection with their experts, and exchanged multiple
15 sets of written discovery;

16 **WHEREAS**, in light of the anticipated amendment to Plaintiff’s
17 complaint and the likelihood that expert reports may need to address the new
18 allegations, the Parties have put off expert depositions until this issue is
19 resolved;

20 **WHEREAS**, Plaintiff has requested that Defendant stipulate to the filing
21 of the proposed SAC;

22 **WHEREAS**, Defendant would be unduly and unjustly prejudiced should
23 Plaintiff be allowed to amend the complaint at this stage without affording
24 Defendant sufficient time to respond to the complaint, obtain basic and expert
25 discovery related to the new allegations, and file its anticipated motion for
26 summary judgment;

27 **WHEREAS**, notwithstanding the foregoing, Defendant has agreed not to
28 oppose Plaintiff’s motion to amend his complaint; provided Defendant is

1 allowed sufficient time to respond to the amended complaint; evaluate the need
2 for further discovery; modify, if necessary, its expert report(s); and file its
3 anticipated motion for summary judgment;

4 **NOW, THEREFORE, IT IS HEREBY STIPULATED AND**
5 **AGREED**, by and among the Parties, through their undersigned counsel, that
6 the following deadlines be continued from the dates currently scheduled to
7 dates on or near the dates proposed below:

- 8 1. Non-expert discovery cut-off be extended to April 15, 2011;
- 9 2. The expert discovery cut-off be extended to May 13, 2011;
- 10 3. The deadline for filing non-dispositive motions be set for a date in late
11 June 2011 convenient to the Court;
- 12 4. The deadline for filing dispositive motions be set for a date in late
13 July 2011 convenient to the Court;
- 14 5. The pre-trial conference be set for a date convenient to the Court in
15 August 2011;
- 16 6. The trial be set for a date convenient to the Court in September 2011;
17 and
- 18 7. That if the additional time requested herein is granted by the Court,
19 Defendant will not oppose Plaintiff's filing of his Second Amended
20 Complaint, which shall be filed no later than five (5) days after the
21 Parties are notified of this Court's Order approving this Stipulation.

22 Dated: February 8, 2011

MOORE LAW FIRM, P.C.

/s/ Tanya E. Moore

TANYA E. MOORE

Attorneys for Plaintiff

CALL & JENSEN

/s/ Matthew R. Orr

MATTHEW R. ORR

Attorneys for Defendant

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ORDER

The Parties having so stipulated, and good cause appearing therefor, it is hereby ordered that the current dates shall be extended as follows:

1. The non-expert discovery cut-off date is April 15, 2011;
2. The expert discovery cut-off date is May 13, 2011;
3. The deadline for filing non-dispositive motions is May 25, 2011;
4. The hearing date on non-dispositive motions is on or before June 22, 2011;
5. The deadline for filing dispositive motions is June 28, 2011;
6. The hearing date on dispositive motions is on or before August 9, 2011;
7. The pre-trial conference is set for September 20, 2011;
8. The trial is set for October 31, 2011; and
9. Plaintiff's Second Amended Complaint shall be filed within five (5) days of the date of this order.

IT IS SO ORDERED.

Dated: **February 8, 2011**

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE