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18 **UNITED STATES DISTRICT COURT**
 19 **EASTERN DISTRICT OF CALIFORNIA, SACRAMENTO DIVISION**

20 BRIAN KORN, individually; on behalf of 21 himself and all others similarly situated, 22 23 Plaintiffs, 24 25 vs. 26 POLO RALPH LAUREN CORPORATION, a 27 Delaware corporation; and DOES 1 through 50 28 inclusive, 29 30 Defendants.) Case No. 2:07-CV-02745 FCD JFM)) <u>CLASS ACTION</u>)) JOINT STIPULATION AND ORDER) FOR CHANGE OF VENUE PURSUANT) TO 28 U.S.C. § 1404, OR,) ALTERNATIVELY, JOINT REQUEST) FOR EXPEDITED STATUS) CONFERENCE OR HEARING)))
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31 Plaintiff, Brian Korn (“Korn”), and Defendant, Polo Ralph Lauren Corporation (“Polo”)
 32 (collectively, “Parties”), by and through their respective attorneys, respectfully submit this Joint
 33 Stipulation and [Proposed] Order for Change of Venue Pursuant to 28 U.S.C. §1404, or,
 34 Alternatively, Joint Request for Expedited Status Conference or Hearing relating to the above-
 35 referenced matter (the “*Korn* action”).

RECITALS

1
2 1. As Polo described in its June 26, 2009 letter to this Court [Dkt. No. 56], the
3 Parties attended Mediation sessions with the Honorable Gary L. Taylor (Ret.) of JAMS on
4 September 9, 2008, October 14, 2008 and December 16, 2008, wherein and after which the
5 Parties reached agreement as to all material terms. These Mediation sessions were held jointly
6 with the attorneys and parties in a related action now pending in the Central District of
7 California, Southern Division, styled *Shabaz, et al., v. Polo Ralph Lauren Corporation, et al.*,
8 Case No. SA CV 07-1349 AG (ANx) (the “*Shabaz* action”), which was also resolved in
9 conjunction with the *Korn* action as a result of these Mediation Sessions.

10 2. In the interest of judicial efficiency and economy, and as provided in the proposed
11 Settlement Agreement, the Plaintiffs in the *Korn* and *Shabaz* actions and Polo sought to
12 coordinate the two actions for the sole purpose of settling and seeking court approval of that
13 proposed settlement. They thus filed in this action [Dkt. No. 54] and the *Shabaz* action two
14 substantially similar Joint Motions for Coordination seeking coordination of *Korn* with the
15 *Shabaz* action – the latter of which was first-filed and featured the more comprehensive putative
16 class.

17 3. On June 1, 2009, the Honorable Andrew J. Guilford, who is presiding over the
18 *Shabaz* action, granted the coordination motion, ordering, *inter alia*, that: (1) the *Shabaz* action
19 and the *Korn* action be coordinated for the sole purpose of seeking court approval of the
20 Proposed Class Action Settlement relating to the actions; (2) the coordinated actions be assigned
21 to the *Shabaz* Court, for the sole purpose of determining whether the Proposed Settlement
22 Agreement relating to the coordinated actions should be approved as fair, reasonable, and
23 adequate pursuant to Rule 23 of the Federal Rules of Civil Procedure; and (3) a preliminary
24 approval hearing date and a final approval hearing date be set before the *Shabaz* Court in
25 accordance with the terms of the proposed Settlement Agreement.

26 4. On June 4, 2009, this Court denied the Joint Motion:

27
28 The Court notes that the parties fail to cite any statutory authority for [the Joint
Motion]. The parties seek to coordinate pretrial proceedings with a related case

1 pending in the Central District of California, but do not seek transfer of the case in
2 its entirety pursuant to 28 U.S.C. 1404; as such, the Court finds that the provisions
3 of 28 U.S.C. 1407 are applicable. Because the parties have not submitted this
4 case for transfer to the judicial panel on multidistrict litigation, the Court DENIES
5 the motion as procedurally defective. [Dkt. No. 55]

6 5. On June 22, 2009, without Polo's agreement or consent as to the timing of the
7 filing, Plaintiff Shabaz moved before Judge Guilford for preliminary approval of the proposed
8 Settlement Agreement as to both the *Korn* and *Shabaz* actions, and he set a hearing date for his
9 motion of July 20, 2009.

10 6. The Parties fully support the proposed Settlement Agreement, and submit that it is
11 fair, reasonable, adequate, and in the best interests of the Plaintiffs in both actions, as well as
12 members of the putative classes.

13 7. On June 26, 2009, Polo filed a letter in this Court apprising the Court of recent
14 events relating to the proposed settlement in the *Korn* and *Shabaz* actions, as well as Polo's
15 concerns regarding the appropriateness of the timing of Plaintiff Shabaz's filing of the motion for
16 preliminary approval, in light of this Court's and Judge Guilford's recent rulings. On that same
17 day, Polo filed a notice and request for an expedited status conference or hearing in the *Shabaz*
18 action.

19 STIPULATION

20 Accordingly, and in conformance with this Court's June 4, 2009 Order, the Parties
21 stipulate, agree and respectfully request that the Court enter an order providing that this Court
22 transfer the venue of the *Korn* action, which has been settled in conjunction with the *Shabaz*
23 action pursuant to the proposed Settlement Agreement, to Judge Guilford, in the Central District
24 of California.

25 Change of venue is proper here pursuant to 28 U.S.C. 1404(a) to the Central District,
26 where the first action (*Shabaz*) was filed and where the more comprehensive putative class is
27 featured, for the convenience of the Court and the parties. Furthermore, change of venue is
28 proper in the interest of justice, in that it would be unnecessarily duplicative to seek review and
approval of the proposed Settlement Agreement in two separate courts, and it would unduly
delay resolution of the cases. Similarly, the Courts would unnecessarily expend judicial

1 resources by addressing the same legal and factual issues, which potentially could lead to
2 inconsistent rulings.

3 This Court has the authority to enter an order for a change of venue, because the Court
4 may transfer any civil action to any other district where it might have been brought pursuant to
5 28 U.S.C. 1404(a). The *Korn* action could have been brought in the Central District of
6 California, as Polo owns and operates retail stores within that District.

7 **JOINT REQUEST FOR EXPEDITED STATUS CONFERENCE OR HEARING**

8 Alternatively, should the Court not enter an order providing that this action be transferred
9 to Judge Guilford in the Central District, or should the Court wish to confer with the Parties, the
10 Parties respectfully request an expedited status conference or hearing.

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12 SO STIPULATED BY PLAINTIFF.

13 Dated: July 8, 2009

LINDSAY & STONEBARGER, APC

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15 By: /s/
Gene J. Stonebarger
Attorneys for Plaintiff Brian Korn

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17 SO STIPULATED BY DEFENDANT.

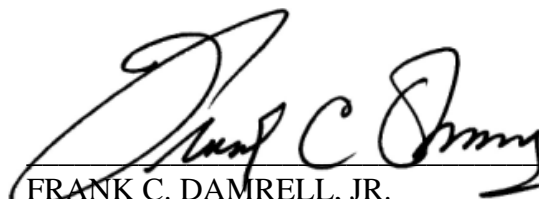
18 Dated: July 8, 2009

KELLEY DRYE & WARREN LLP

19
20 By: /s/
Donna L. Wilson
Attorneys for Defendant Polo Ralph
21 Lauren Corporation

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23 **IT IS SO ORDERED** that this action is transferred to Judge Guilford in the United
24 States District Court for the Central District of California.

25
26 Dated: July 8, 2009

27 
FRANK C. DAMRELL, JR.
28 UNITED STATES DISTRICT JUDGE