

1 Timothy E. Cary, Esq., SBN 093608
2 Law Offices of Robert A. Stutman, P.C.
3 500 N. State College, Suite 1100
4 Orange, California 92868
Telephone: (714) 919-4420
Facsimile: (714) 919-4423
Our File Number: 1280.016

5 Attorneys for Plaintiff, MERCURY CASUALTY COMPANY
6 As Subrogee of RICHARD and KATHRYN SCHLENKER;
RICHARD and KATHRYN SCHLENKER

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MERCURY CASUALTY COMPANY,
a California Corporation, as Subrogee of
RICHARD and KATHRYN
SCHLENKER; RICHARD
SCHLENKER, individually; and
KATHRYN SCHLENKER,
individually,

Case No. 2:08-cv-01374-MCE-KJM

Assigned to the Honorable Morrison C. England, Jr.

Plaintiffs,

VS.

CHAR-BROIL, a Division of W.C.
BRADLEY COMPANY, a Georgia
Corporation; TARGET
CORPORATION, a Minnesota
Corporation; and DOES 1-100,
inclusive,

**STIPULATION RE REQUEST FOR
MODIFICATION OF SECOND
PRETRIAL SCHEDULING ORDER
PURSUANT TO Fed. R. Civ. P. 16;
LOCAL RULE 16-270; ORDER**

Defendants.

IT IS HEREBY STIPULATED by and between the undersigned parties, by and through their counsel of record, as follows:

The parties agree and request that this Honorable Court modify its Second Pretrial Scheduling Order based on good cause for the following reasons:

1 1. This is a product liability case in which it is alleged that a component
2 part manufactured by Third Party Defendant, S. H. Leggitt Company d/b/a Marshall
3 Gas Controls (“Leggitt”) and incorporated into a product manufactured by Defendant
4 Char Broil caused or contributed to Plaintiff’s damage.

5 2. On or about February 19, 2010 Leggitt filed a Notice of Filing of
6 Bankruptcy under Chapter 11 of the Bankruptcy Code with resulting automatic stay
7 of all proceedings against it.

8 3. The Automatic Stay provisions of the Bankruptcy Code stay the
9 proceedings in this matter as to Leggitt. By virtue of the Bankruptcy Stay, the parties
10 are enjoined from engaging in any discovery against Leggitt.

11 4. Counsel for Char Broil has engaged in dialogue with bankruptcy counsel
12 for Leggitt, and with Plaintiffs’ counsel, and it has been collectively agreed that a
13 continuance of certain dates in the Pretrial Scheduling Order for up to 150 days will
14 be potentially sufficient for the Chapter 11 process to be concluded and for some
15 discovery to take place. Additionally the Parties request that the dates in the Pretrial
16 Scheduling Order be amended to allow for the third party Leggitt to participate in
17 discovery after it has been reorganized in bankruptcy and the stay is lifted.

18 5. Plaintiff and Defendant have agreed to participate in private mediation in
19 Southern California within the next 60 days. In coordination with the bankruptcy
20 trustee, Leggitt will be invited to attend this mediation with a view to resolving the
21 entire case.

22 Accordingly, the parties agree and request that this Honorable Court modify its
23 Second Pretrial Scheduling Order as follows:

24 That the fact discovery deadline shall be extended 150 days 11/11/10

25 That the Expert witness disclosure date shall be extended 150 days to 1/11/11

26 That the motion hearing deadline shall be continued to 2/7/11

27 That the Court continue the Final Pretrial Conference for 60 days.

28 That the Court continue the trial setting for 60 days.

1 6. The parties agree that this modification will best serve the parties' interests
2 in light of the Leggitt bankruptcy as well as the need to conserve resources and
3 explore the possibilities of a resolution while keeping the case on track to trial.
4

5 IT IS SO STIPULATED:
6

7 Dated: July 13, 2010

PAGE, SCRANTOM, SPROUSE,
TUCKER & FORD, P.C.

10 By: /S/ James C. Clark, Jr.
11 James C. Clark, Jr.
12 Kirsten C. Stevenson
13 Attorneys for Defendants W.C.
14 BRADLEY CO. and TARGET
15 CORPORATION

16 Dated: July 13, 2010

LAW OFFICES OF ROBERT A.
17 STUTMAN, P.C.

19 By: /S/ Timothy E. Cary
20 Timothy E. Cary, Esq.
21 Attorneys for Plaintiffs, MERCURY
22 CASUALTY COMPANY as
23 Subrogee of RICHARD AND
24 KATHRYN SCHLENKER; and
25 RICHARD and KATHRYN
26 SCHLENKER, Individually
27
28

1 ORDER
2
3

4 GOOD CAUSE APPEARING, the Second Pretrial Conference Scheduling
5 Order will be modified to reflect the foregoing stipulation of the parties. A revised
6 Pretrial Scheduling Order will be forthcoming from the Court.

7 Dated: July 14, 2010

8 
9 MORRISON C. ENGLAND, JR.
10 UNITED STATES DISTRICT JUDGE

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28