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11 Attorneys for Defendants Random House,
 Inc., Broadway Books, and Crown
 12 Publishing Group

13 *(See Signature Page for Additional*
 14 *Parties and Counsel)*

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

17 ROB STUTZMAN, JONATHAN WHEELER,
 18 GLORIA LAURIA, DAVID REIMERS and
SCOTT ARMSTRONG, on behalf of
 themselves and all others similarly situated,

19 Plaintiffs,

20 vs.

21 LANCE ARMSTRONG; PENGUIN GROUP
 22 (USA), INC.; G.P. PUTNAM'S SONS; THE
 BERKLEY PUBLISHING GROUP;
 23 RANDOM HOUSE, INC.; BROADWAY
 BOOKS; CROWN PUBLISHING GROUP;
 24 THOMAS W. WEISEL; WILLIAM J.
 STAPLETON; and DOES 1-50, inclusive,

25 Defendants.
26

CASE No. 2:13-cv-00116-MCE-KJN

Assigned for all purposes to the Honorable Morrison C. England, Jr.

**STIPULATION AND ORDER RE
 FILING OF PLAINTIFFS' FIRST
 AMENDED CLASS ACTION
 COMPLAINT, SCHEDULING
 PARTIES' RULE 26(f) CONFERENCE,
 FILING OF PARTIES' JOINT STATUS
 REPORT, AND BRIEFING SCHEDULE
 FOR DEFENDANTS' RESPONSE(S) TO
 PLAINTIFFS' FIRST AMENDED
 CLASS ACTION COMPLAINT**

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3 Plaintiffs, Rob Stutzman, Jonathan Wheeler, Gloria Lauria, David Reimers and Scott
4 Armstrong (collectively, “Plaintiffs”); and Defendant Penguin Group (USA) Inc. (“Penguin”), also
5 sued as G.P. Putnam’s Sons and The Berkley Publishing Group; Defendant Random House, Inc.
6 (“Random House”), also sued as Broadway Books and Crown Publishing Group (together, the
7 “Publisher Defendants”); and Defendant Lance Armstrong (“Defendant Armstrong”), by and
8 through their undersigned counsel, hereby stipulate and agree as follows:

9 WHEREAS, on January 22, 2013, Plaintiffs Stutzman and Wheeler filed a Class Action
10 Complaint (the “Complaint”) on behalf of themselves and a proposed class of California residents
11 who purchased two books authored by Defendant Armstrong and published by the Publisher
12 Defendants, *i.e.*, It’s Not About the Bike: My Journey Back to Life and Every Second Counts (*see*
13 Dkt. No. 1); and

14 WHEREAS, the Complaint alleges, among other things, claims for negligent
15 misrepresentation and fraud, as well as California statutory claims pursuant to the Consumers Legal
16 Remedies Act (“CLRA”) (Cal. Civ. Code § 1750 *et seq.*), the Unfair Competition Law (Cal. Bus. &
17 Prof. Code § 17200 *et seq.*), and the False Advertising Law (Cal. Bus. & Prof. Code § 17500 *et*
18 *seq.*); and

19 WHEREAS, the Complaint and the Summons issued by the Clerk were served on
20 Defendant Random House on January 25, 2013; on Defendant Armstrong on January 29, 2013, and
21 on Defendant Penguin on January 30, 2013, and Plaintiffs Stutzman and Wheeler have electronically
22 filed the requisite proofs of service; and

23 WHEREAS, on January 22, 2013, this Court entered its Order Requiring Joint Status Report
24 (the “Order”) (Dkt. No. 4); and

25 WHEREAS, on February 5, 2013, Plaintiffs Stutzman and Wheeler filed their Certificate
26 Confirming Service of this Court’s Order Requiring Joint Status Report (Dkt. No. 6); and

27 WHEREAS, the parties are due to comply with the Order on or before March 26, 2013; and

28 WHEREAS, during a teleconference held on February 11, 2013, counsel for Plaintiffs
advised counsel for the Publisher Defendants that Plaintiffs Stutzman and Wheeler intend to file a
First Amended Class Action Complaint (the “First Amended Complaint”), in order to, among other

1
2 things, add a claim (or claims) for damages pursuant to the CLRA; and

3 WHEREAS, on March 7, 2013, Plaintiffs filed an 85-page First Amended Complaint adding
4 three new plaintiffs (Gloria Lauria, David Reimers and Scott Armstrong), two new defendants
5 (Thomas W. Weisel and William J. Stapleton), three additional books upon which they seek relief,
6 additional claims under the CLRA and additional factual allegations; and

7 WHEREAS, on March 7, 2013, the First Amended Complaint was served electronically
8 upon counsel for the Publisher Defendants and Defendant Armstrong, respectively, and
9 arrangements were commenced to serve Defendants Weisel and Stapleton with a copy of the
10 Summons and First Amended Complaint; and

11 WHEREAS, service of the Summons and First Amended Complaint upon Defendants
12 Weisel and Stapleton has not yet been completed; and

13 WHEREAS, each of the Publisher Defendants intends to file in response to the First
14 Amended Complaint, a motion to dismiss pursuant to Rule 12 of the Federal Rules of Civil
15 Procedure and a special motion to strike pursuant to Section 425.16 *et seq.* of the California Code of
16 Civil Procedure, the so-called anti-SLAPP statute; and

17 WHEREAS, Defendant Armstrong presently contemplates filing in response to the First
18 Amended Complaint, a motion to dismiss and motion to strike pursuant to Rule 12 of the Federal
19 Rules of Civil Procedure, and possibly a special motion to strike pursuant to Section 425.16 *et seq.*
20 of the California Code of Civil Procedure. ***and***

21 WHEREAS, in light of the filing of the First Amended Complaint, the fact that service
22 thereof upon Defendants Weisel and Stapleton has not yet been completed and the need for all
23 defense counsel (including those not yet having appeared herein) to review and analyze adequately
24 the First Amended Complaint and discuss the same with their respective clients, an extension of time
25 from March 26, 2013, until April 12, 2013, is needed in order for all counsel to meaningfully
26 participate in a Rule 26(f) conference and prepare the Joint Status Report; and

27 WHEREAS, counsel for Plaintiffs, Defendant Armstrong, Defendant Penguin and
28 Defendant Random House have agreed to conduct a Rule 26(f) conference on March 27, 2013; and

WHEREAS, pursuant to Local Rule 144, the parties having appeared herein respectfully

1
2 request that the Court approve such parties' briefing schedule for the motions to dismiss and motions
3 to ; and

4 WHEREAS, this stipulation is the first extension requested by the parties relating to
5 responding to the First Amended Complaint, is made in good faith, is not made for the purpose of
6 delay and will not prejudice any party;

7 IT IS HEREBY STIPULATED AND AGREED THAT:

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- 9 1. In accordance with this Court's Order, and in consideration of the needs expressed
10 above, the parties shall **conduct their Rule 26(f) conference on March 27, 2013,**
11 **and shall** file the Joint Status Report on or before April 12, 2013;
 - 12 2. Defendants shall file their motions in response to the First Amended Complaint and
13 papers in support thereof on or before April 26, 2013;
 - 14 3. Plaintiffs shall file their briefs and other papers in opposition to the Defendants'
15 motions to dismiss and motions to strike the First Amended Complaint on or before
16 June 17, 2013; and
 - 17 4. Defendants shall file their reply briefs and other papers in further support of the
18 motions on or before July 12, 2013.

19 Respectfully submitted,

20 WILENTZ, GOLDMAN & SPITZER, P.A.
21 Kevin P. Roddy (SBN 128283)

22 LAW OFFICE OF TRACEY BUCK-WALSH
23 Tracey Buck-Walsh (SBN 131254)

24 Dated: March 20, 2013

25 TURNER & ASSOCIATES
26 C. Tab Turner (admitted *pro hac vice*)

27 THE ROSSBACHER FIRM
28 Henry H. Rossbacher (SBN 060260)

By: /s/ Kevin P. Roddy
Kevin P. Roddy
Attorneys for Plaintiffs

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Dated: March 20, 2013

SIDLEY AUSTIN LLP
Stephen G. Contopoulos (SBN 50317)
Bradley H. Ellis (SBN 110467)
/s/ Stephen G. Contopoulos (as authorized on
By: 3/20/13)
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DORSEY & WHITNEY LLP
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Jonathan M. Herman (admitted *pro hac vice*)
F. Matthew Ralph (admitted *pro hac vice*)

By: /s/ Kent J. Schmidt (as authorized on 3/20/13)
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Attorneys for Defendants Penguin Group (USA), Inc.,
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Group

Dated: March 20, 2013

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Gregory S. Korman (SBN 216931)
Andrew J. Demko (SBN 247320)

Dated: March 20, 2013

By: /s/ Zia F. Modabber (as authorized on
3/20/13)
Zia F. Modabber
Attorneys for Defendant Lance Armstrong


HOWRY BREEN LLP
Sean Breen (*pro hac vice* application to be filed)

By: /s/ Sean Breen (as authorized on 3/20/13)
Sean Breen
Attorneys for Defendant Lance Armstrong

ORDER

IT IS SO ORDERED.

DATED: March 27, 2013


MORRISON C. ENGLAND, JR., CHIEF JUDGE
UNITED STATES DISTRICT JUDGE