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Attorneys for Defendant Thomas W. Weisel
(See Signature Page for Additional Parties
and Counsel)

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

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

Plaintiffs,

v.

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

Defendants.

Case No. 2:13-cv-00116-MCE-KJN
Assigned for all purposes to the
Honorable Morrison C. England Jr.

**STIPULATION AND ORDER RE
BRIEFING SCHEDULE FOR
DEFENDANTS THOMAS W.
WEISEL'S AND WILLIAM J.
STAPLETON'S RESPONSES TO
PLAINTIFFS' FIRST AMENDED
CLASS ACTION COMPLAINT**

1 Plaintiffs Rob Stutzman, Jonathan Wheeler, Gloria Lauria, David Reimers and
2 Scott Armstrong (collectively, “Plaintiffs”); and Defendant Thomas W. Weisel (“Weisel”) and
3 Defendant William J. Stapleton (“Stapleton”), by and through their undersigned counsel, hereby
4 stipulate and agree as follows:

5 WHEREAS, on March 7, 2013, Plaintiffs filed an 85-page First Amended Class
6 Action Complaint (the “Complaint”) adding, *inter alia*, two new defendants (Weisel and
7 Stapleton); and

8 WHEREAS, the Complaint asserts California common law claims for fraud and
9 deceit and negligent misrepresentation, as well as California statutory claims pursuant to the
10 Consumers Legal Remedies Act (“CLRA”) (Cal. Civ. Code § 1750 *et seq.*), the Unfair
11 Competition Law (Cal. Bus. & Prof. Code § 17200 *et seq.*), and the False Advertising Law (Cal.
12 Bus. & Prof. Code § 17500 *et seq.*); and

13 WHEREAS, Defendants Weisel and Stapleton executed Waivers of Service of
14 Summons for Complaint on March 27, 2013 and April 1, 2013, respectively; and

15 WHEREAS, Defendants Weisel and Stapleton each intend to file a motion to
16 dismiss pursuant to Rules 8, 9(b), and 12(b)(6) of the Federal Rules of Civil Procedure and a
17 special motion to strike pursuant to Section 425.16 *et seq.* of the California Code of Civil
18 Procedure (the “Subject Motions”); and

19 WHEREAS, on March 28, 2013, the Court ordered a briefing schedule for
20 motions to dismiss and special motions to strike filed by Defendants Armstrong; Penguin Group
21 (USA), Inc.; G.P. Putnam’s Sons; The Berkley Publishing Group; Random House, Inc.;
22 Broadway Books; and Crown Publishing Group (the “Co-Defendants’ Motions”); and

23 WHEREAS, the Co-Defendants’ Motions are currently set for hearing on July 25,
24 2013; and

25 WHEREAS, Plaintiffs, Weisel and Stapleton have met and conferred regarding an
26 appropriate briefing schedule with respect to the Subject Motions, and all agree that for purposes
27 of judicial economy the schedule should be coordinated with the existing briefing schedule on
28 the Co-Defendants' Motion and set for hearing on the same date (subject to Court approval); and

1 WHEREAS, pursuant to Rule 144(a) of the Local Rules of the United States
2 District Court for the Eastern District of California, Plaintiffs and Defendants Weisel and
3 Stapleton having appeared herein respectfully request that the Court approve such parties'
4 briefing schedule for the Subject Motions; and

5 WHEREAS, this stipulation is the first extension requested by Plaintiffs, Weisel
6 and Stapleton relating to Weisel's and Stapleton's responses to the Complaint, is made in good
7 faith, is not made for the purpose of delay and will not prejudice any party;

8 IT IS HEREBY STIPULATED AND AGREED THAT:

- 9 1. Defendants Weisel and Stapleton shall file the Subject Motions, and papers in
10 support thereof, on or before **June 3, 2013**;
- 11 2. Plaintiffs shall file their briefs and other papers in opposition to the Subject
12 Motions on or before **June 28, 2013**; and
- 13 3. Defendants Weisel and Stapleton shall file their reply briefs and other papers in
14 further support of the Subject Motions on or before **July 12, 2013**.
- 15 4. The hearing on the Subject Motions should be set for **July 25, 2013**.

16
17 Dated: May 21, 2013

Respectfully submitted,

18 /s/ Kevin P. Roddy

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

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

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

22 Henry H. Rossbacher (SBN 060260)
THE ROSSBACHER FIRM

23 *Attorneys for Plaintiffs*
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1 Dated: May 21, 2013

/s/ Robert A. Sacks

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10 Dated: May 21, 2013

/s/ Marc S. Harris

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Attorneys for Defendant William J. Stapleton

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1 **ORDER**

2 On the Court's own motion, the hearing on Defendants' Motions to Strike (ECF Nos. 36,
3 42, 47) and Defendants' Motion to Dismiss (ECF NO. 37, 41, 46) are currently scheduled for
4 July 25, 2013, are vacated and rescheduled for August 8, 2013, at 2:00 p.m. in Courtroom 7.

5 Accordingly, the Court orders the following briefing schedule as to Defendants Weisel
6 and Stapleton:

- 7 1. Defendants Weisel and Stapleton shall file the Subject Motions, and papers in
8 support thereof, on or before July 18, 2013;
- 9 2. Plaintiffs shall file their briefs and other papers in opposition to the Subject
10 Motions on or before July 25, 2013; and
- 11 3. Defendants Weisel and Stapleton shall file their reply briefs and other papers in
12 further support of the Subject Motions on or before August 1, 2013.

13 The hearing on the Subject Motions (ECF Nos. 53, 55, 56, 57) shall be set for August 8, 2013, at
14 2:00 in Courtroom 7, to be heard with Defendants' additional motions (ECF Nos. 36, 37, 41, 42,
15 46, 47.)

16 IT IS SO ORDERED.

17 DATED: June 5, 2013

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20 MORRISON C. ENGLAND, JR., CHIEF JUDGE
21 UNITED STATES DISTRICT COURT
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