

1 FREDERICK B. WARDER III, (NY SBN 23724720)
Admitted pro hac vice
2 PATTERSON BELKNAP WEBB & TYLER LLP
1133 Avenue of the Americas
3 New York, NY 10036
Telephone: (212) 336-2121
4 Facsimile: (212) 336-2222
FBWarder@pbwt.com

5 JAMES M. MATTESICH (SBN 54069)
6 MARC B. KOENIGSBERG (SBN 204265)
GREENBERG TRAUERIG, LLP
7 1201 K Street, Suite 1100
Sacramento, CA 95814-3938
8 Telephone: (916) 442-1111
Facsimile: (916) 448-1709
9 MattesichJ@gtlaw.com
KoenigsbergM@gtlaw.com

10 Attorneys for Defendant
11 MAYBELLINE LLC

12 UNITED STATES DISTRICT COURT

13 FOR THE EASTERN DISTRICT OF CALIFORNIA

15 PATSY MURDOCK, Individually And On) CASE NO. 2:13-CV-00207-JAM-EFB
16 Behalf Of All Others Similarly Situated,)
17 Plaintiff,)
18 v.) **STIPULATED REQUEST TO STAY**
) **ACTION; ORDER**
19 MAYBELLINE, LLC,) Judge: Hon. John A. Mendez
)
20 Defendants.) Complaint Filed: February 1, 2013
) Trial Date: None Set
21)
22)

1 Plaintiff Patsy Murdock (“Plaintiff”) and Defendant Maybelline LLC (“Defendant,”
2 and together with Plaintiff, the “Parties”) through their respective counsel hereby stipulate as
3 follows:

4 WHEREAS, Plaintiff served the Complaint in this action on February 1, 2013;

5 WHEREAS, Defendant served its Answer to the Complaint on March 22, 2013;

6 WHEREAS, three other cases involving allegations about the represented perfor-
7 mance of Defendant’s SuperStay lip and/or other cosmetic products and seeking monetary
8 and injunctive relief are pending against Defendant in three other judicial districts:

- 9 • *Leebove et al. v. Maybelline, LLC*, No. 12-CV-7146 (S.D.N.Y.), filed on Sep-
10 tember 26, 2012;
- 11 • *Orshansky v. L’Oreal USA, Inc. et al.*, No. 12-CV-6342 (N.D. Cal.), filed on
12 December 14, 2012; and
- 13 • *Algarin v. Maybelline, LLC*, Case No. 13-cv-00207 (AJB) (DHB) (S.D. Cal.),
14 filed December 18, 2012;

15 WHEREAS on March 22, 2013, Defendant filed a motion with the Judicial Panel on
16 Multidistrict Litigation (“JPML”) pursuant to 28 U.S.C. § 1407 to transfer this *Murdock* ac-
17 tion and the *Orshansky* and *Algarin* actions set forth above to the Southern District of New
18 York, where the first-filed *Leebove* action is pending and where all defendants are headquar-
19 tered, for coordinated MDL proceedings, *In re: Maybelline New York and L’Oreal Paris*
20 *Cosmetic Prods. Adver. Litig.*, MDL No. 2447;

21 WHEREAS Plaintiff’s response to Defendant’s motion before the JPML is due on
22 April 15, 2013, and Defendant’s reply is due on April 22, 2013.

23 WHEREAS, the JPML may transfer this case to a different court for coordinated pre-
24 trial proceedings;

25 WHEREAS, to conserve the resources of the Court and the Parties, the Parties agree
26 that it is appropriate to stay this action until the JPML rules on the pending motion for trans-
27 fer and consolidation and that such a stay would promote the interests of justice;

1 WHEREAS, this Court has inherent power to stay proceedings in order to “control
2 the disposition of the causes on its docket with economy of time and effort for itself, for
3 counsel, and for litigants,” *Landis v. North Am. Co.*, 299 U.S. 248, 254 (1936);

4 WHEREAS, district courts routinely stay cases pending the JPML’s decision on a
5 motion for transfer in order to avoid the necessity of pretrial litigation that they may never
6 have to oversee if the transfer motion is granted. *See Rivers v. Walt Disney Co.*, 980 F.
7 Supp. 1358, 1362 (C.D. Cal. 1997) (agreeing with “a majority of courts” that it is
8 “appropriate to stay preliminary pretrial proceedings while a motion to transfer and
9 consolidate is pending with the [JPML] because of the judicial resources that are
10 conserved”); *see also Good v. Prudential Ins. Co. of Am.*, 5 F. Supp. 2d 804, 809 (N.D. Cal.
11 1998) (“Courts frequently grant stays pending a decision by the [JPML] regarding whether
12 to transfer a case.”); and

13 WHEREAS, the Parties agree that, should the MDL motion be denied, the Parties
14 will promptly confer and file the Joint Status Report required by the Court’s February 4,
15 2013 Order Requiring Joint Status Report within fourteen (14) days of the denial.

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1 NOW, THEREFORE, IT IS HEREBY STIPULATED and requested by the Parties
2 through their respective attorneys of record that all proceedings, deadlines and discovery in
3 this action be stayed until after the JPML rules on the currently pending motion for transfer
4 and consolidation captioned *In re: Maybelline New York and L'Oreal Paris Cosmetic Prods.*
5 *Adver. Litig.*, MDL No. 2447.

6 Dated: April 8, 2013

**SHEPHERD, FINKELMAN, MILLER
& SHAH, LLP**

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9 By: /s/ Rose F. Luzon (authorized on 4/8/13)
Rose F. Luzon
James C. Shah
Natalie Finkelman Bennett

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11 *Attorneys for Plaintiff* PATSY MURDOCK

GREENBERG TRAUIG, LLP

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15 By: /s/ Marc B. Koenigsberg
James M. Mattesich
Marc B. Koenigsberg
16 *Attorneys for Defendant* MAYBELLINE
17 LLC

18 **ORDER**

19 Good cause appearing therefor and pursuant to the Parties' stipulation, it is hereby
20 ORDERED that all proceedings, deadlines and discovery in this action be stayed until after
21 the JPML rules on the currently pending petition captioned *In re: Maybelline New York and*
22 *L'Oreal Paris Cosmetic Prods. Adver. Litig.*, MDL No. 2447.

23 PURSUANT TO STIPULATION, IT IS SO ORDERED.

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25 DATED: April 9, 2013

/s/ John A. Mendez
JOHN A. MENDEZ
United States District Court Judge