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all others similarly situated

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on Signature Page***

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

RICHARD SMITH AND REBECCA  
KLEIN, on behalf of themselves and all  
others similarly situated,

Plaintiffs,

v.

FORD MOTOR COMPANY, and DOES 1-  
100, inclusive,

Defendants.

Case No. C 06 0497 MMC JL

**STIPULATION AND PROPOSED  
ORDER CONTINUING DATES RE  
DISPOSITIVE MOTION**

1 On February 18, 2009, the Court set the following schedule for the pending dispositive  
2 motions filed by Defendant:

3 May 11, 2009 Plaintiffs conclude discovery pertaining to issues raised by  
4 Defendant's motions for summary judgment (including depositions  
5 of Defendant's declarants).

6 May 26, 2009 Plaintiffs file briefs in opposition to motions for summary  
7 judgment and (possibly) cross-motion for summary judgment.

8 June 9, 2009 Defendant completes depositions of Plaintiffs' declarants.

9 June 23, 2009 Defendant files reply brief(s) in support of motions for summary  
10 judgment.

11 July 17, 2009 Hearing of motion for summary judgment.<sup>1</sup>

12 On March 3, 2009, the California Supreme Court heard oral arguments in *In re Tobacco*  
13 *II Cases*, no. S147345 and submitted the matter. The Supreme Court's website describes that  
14 case as including the following two issues (although these do not limit the Court's review):

15 (1) In order to bring a class action under Unfair Competition Law (Bus. & Prof.  
16 Code, § 17200 et seq.), as amended by Proposition 64 (Gen. Elec. (Nov. 2, 2004)), must  
17 every member of the proposed class have suffered "injury in fact," or is it sufficient that  
the class representative comply with that requirement?

18 (2) In a class action based on a manufacturer's alleged misrepresentation of a product,  
19 must every member of the class have actually relied on the manufacturer's  
representations?

20 Pursuant to Article VI § 19 of the California Constitution, the Supreme Court's decision  
21 in this case is due in June 2009 –after the current deadline for Plaintiffs' briefs. While the parties  
22 do not agree as to what effect (or even relevance), if any, the decision in *In re Tobacco II Cases*  
23 will have on the matters pending before the Court, the parties agree that they may wish to  
24 address the case in their briefs. All parties also agree that such discussion should occur in the  
25

26 <sup>1</sup> In the event that Plaintiffs file a cross-motion for summary judgment, the  
27 parties' shall, no later than five days thereafter, submit a stipulated revised briefing  
28 schedule in which the proposed hearing date on both motions shall be no earlier  
than three weeks after plaintiffs' reply is filed.

ordinary course of briefing, and not through supplemental briefs. Accordingly, all parties agree and respectfully ask the Court to continue all pending dates related to these motions by five to six weeks (in light of July 4<sup>th</sup> holiday) to allow analysis and discussion of the upcoming *In re Tobacco II Cases* decision. The new schedule would be as follows:

<b>June 30, 2009</b>	Plaintiffs file briefs in opposition to motions for summary judgment and (possibly) cross-motion for summary judgment.
<b>July 21, 2009</b>	Defendant completes depositions of Plaintiffs' declarants.
<b>August 4, 2009</b>	Defendant files reply brief(s) in support of motions for summary judgment.
<b>August 28, 2009</b>	Hearing of motion for summary judgment. <sup>2</sup>

**SO STIPULATED.**

DATED: May 12, 2009

**FAZIO | MICHELETTI LLP**

by /s/ Jeffrey L. Fazio  
Jeffrey L. Fazio

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Michael Ng  
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Robert Smith and Rebecca Klein, on behalf of  
themselves and all others similarly situated

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<sup>2</sup> In the event that Plaintiffs file a cross-motion for summary judgment, the parties' shall, no later than five days thereafter, submit a stipulated revised briefing schedule in which the proposed hearing date on both motions shall be no earlier than three weeks after plaintiffs' reply is filed.

1 DATED: May 12, 2009

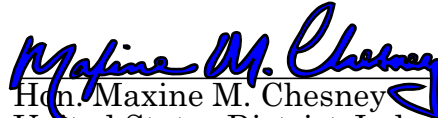
SNELL & WILMER LLP

2  
3  
4 by /s/ Robert J. Gibson  
Robert J. Gibson

5  
6 Attorneys for Defendant  
Ford Motor Company

7  
8 **SO ORDERED.**

9  
10 DATED: May 13, \_\_\_\_\_, 2009

  
Hon. Maxine M. Chesney  
United States District Judge

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