

1 HAGENS BERMAN SOBOL SHAPIRO LLP
 1918 Eighth Avenue, Suite 3300
 2 Seattle, WA 98101
 Telephone: 206.623.7292
 3 Facsimile: 206.623.0594

K&L GATES LLP
 Four Embarcadero Center, Suite 1200
 San Francisco, CA 94111-5994
 Telephone: 415.882.8200
 Facsimile: 415.822-8220

4 Steve W. Berman (*pro hac vice*)
steve@hbsslw.com
 5 Tyler S. Weaver (*pro hac vice*)
tyler@hbsslw.com
 6 Robert F. Lopez (*pro hac vice*)
robl@hbsslw.com

Patrick J. Perrone (*pro hac vice*)
patrick.perrone@klgates.com
 Todd L. Nunn (*pro hac vice*)
todd.nunn@klgates.com

Attorneys for Defendant Trex Company, Inc.

7 Attorneys for Select Plaintiffs and Lead Counsel
 8 for the Proposed Class

9
 10 UNITED STATES DISTRICT COURT
 11 NORTHERN DISTRICT OF CALIFORNIA
 12

13 DEAN MAHAN, GRETCHEN SILVERMAN, J.
 14 STEPHEN TISDALE, STEVEN MCKENNA,
 THOMAS SCHAUPPNER, MARJORIE
 15 ZACHWIEJA, JOHN FORCELLA, SHEILA
 SHAPIRO, SABRINA W. HASS and DR.
 16 LANNY W. HASS, AMY BIONDI-HUFFMAN,
 and BRIAN HATHAWAY, on behalf of
 themselves and all others similarly situated,

Case No. CV 09-00670-JSW

**STIPULATION AND ~~PROPOSED~~
 ORDER REQUESTING REVISION OF
 SCHEDULE AS IT PERTAINS TO
 PLAINTIFFS' MOTION FOR CLASS
 CERTIFICATION**

17 Plaintiffs,

18 vs.

19 TREX COMPANY, INC., a Delaware
 20 corporation,

21 Defendant.

1 Per the Civil Standing Orders of the Honorable Jeffrey S. White, to whom this case was
2 recently re-assigned, plaintiffs Dean Mahan, Gretchen Silverman, J. Stephen Tisdale, Steven
3 McKenna, Thomas Schauppner, Marjorie Zachwieja, John Forcella, Sheila Shapiro, Sabrina W. Hass
4 and Dr. Lanny W. Hass, Amy Biondi-Huffman, and Brian Hathaway, and defendant Trex Company,
5 Inc. (“Trex”), by and through their respective counsel of record, stipulate, and respectfully ask the
6 Court, to extend the deadlines relating to plaintiffs’ motion for class certification.

7 Currently, as reflected in the Court’s order filed on October 12, 2011 (Dkt. No. 193), which
8 extended the previous class-certification schedule per the stipulated request of the parties, due to the
9 timing of Trex’s document production, those deadlines are as follows:

10 Motion for class certification: January 6, 2012;

11 Opposition to class certification: February 6, 2012, with a reservation of the
12 right to seek an extension of this deadline if needed to conduct discovery for
13 issues raised in the Motion for Class Certification;

14 Reply in support of class certification: February 21, 2012, with potential
15 extension if Opposition date is extended;

16 Hearing on motion for class certification: March 23, 2012, at 9:00 a.m.

17 The parties have met and conferred regarding the schedule in light of discovery issues,
18 as explained below, and they hereby stipulate and request that the Court adjust the briefing
19 schedule by two weeks as follows:

20 Motion for class certification: January 20, 2012;

21 Opposition to class certification: February 20, 2012, with a reservation of the
22 right to seek an extension of this deadline if needed to conduct discovery for
23 issues raised in the Motion for Class Certification;

24 Reply in support of class certification: March 5, 2012, with potential extension
25 if Opposition date is extended;

26 Hearing on motion for class certification: March 23, 2012 at 9:00 a.m., or as
27 convenient for the Court.

28 In order to establish good cause for the approval of their request, the parties state the
following:

1
2 1. This case is a proposed nationwide class-action lawsuit involving plaintiffs'
3 allegations relating to mold and spotting on Trex decking material. Plaintiffs and proposed class
4 representatives reside in the states of California, Connecticut, Florida, Illinois, Maryland, Michigan,
5 New Jersey, New York, North Carolina, Ohio, and Washington. No specific trial date has yet been
6 ordered by the Court.

7 2. Plaintiffs propounded their first discovery requests, including their first interrogatories
8 and requests for production, to defendant Trex on March 18, 2011. Trex's most recent production
9 was on September 29, 2011. Trex has advised that its September 29, 2011 installment completes its
10 production in response to plaintiffs' first requests for production.

11 3. On November 3, 2011, following further review of Trex's documents, including those
12 produced at the end of September 2011, plaintiffs propounded a 30(b)(6) notice to Trex. Among the
13 topics are technical matters regarding Trex's manufacturing processes and product ingredients and
14 additives. The parties expect the deposition to produce information relevant to plaintiffs' motion for
15 class certification.

16 4. Trex has advised that it intends to produce two current-employee witnesses in
17 response to plaintiffs' notice. Counsel for the plaintiffs and counsel for Trex have met and conferred
18 several times regarding the scheduling of the depositions of these two witnesses. Counsel for Trex,
19 in turn, has consulted with his client and these witnesses, and he has advised that due to scheduling
20 conflicts and the holidays, these witnesses will not be available for their depositions until December
21 28-29, 2011. This is only a little over a week before January 6, 2012, when plaintiffs' motion for
22 class certification is currently due, and a few days before the New Year's Day holiday, which would
23 not allow the plaintiffs to obtain the transcripts of the depositions and then to review and analyze the
24 material in time to process the information and incorporate it into their class-certification brief as
25 needed.

26 5. As stated above, the parties agree that the depositions will generate information
27 relevant to plaintiffs' motion for class certification. Accordingly, the parties agree that more time is
28 needed before plaintiffs file their motion for class certification, so that plaintiffs can depose these two

1 witnesses and process the information learned in them in order to incorporate it into their class-
2 certification briefing.

3 For the foregoing reasons, the parties submit that there is good cause to revise the schedule for
4 plaintiffs' motion for class certification as requested. Their request is for a short extension of only 14
5 days in which to continue working toward a decision on class certification. They ask respectfully that
6 the Court accept the revised schedule they submit.

7
8 DATED: December 12, 2011.

HAGENS BERMAN SOBOL SHAPIRO LLP

9
10 By /s/ Robert F. Lopez
11 Steve W. Berman
12 Tyler S. Weaver
13 Robert F. Lopez

14 *Attorneys for Select Plaintiffs and Lead Counsel
for the Proposed Class*

15 DATED: December 12, 2011.

K&L GATES LLP

16
17 By: /s/ Patrick J. Perrone
18 Patrick J. Perrone
19 Todd L. Nunn

20 *Attorneys for Defendant Trex Company, Inc.*

[PROPOSED] ORDER

The foregoing Stipulation having been reviewed, and good cause appearing therefor, the requested scheduling change is hereby ORDERED and approved. The schedule as it pertains to plaintiffs' motion for class certification is revised as follows:

Motion for class certification: January 20, 2012;

Opposition to class certification: February 20, 2012, with a reservation of the right to seek an extension of this deadline if needed to conduct discovery for issues raised in the Motion for Class Certification;

Reply in support of class certification: March 5, 2012, with potential extension if Opposition date is extended;

Hearing on motion for class certification: March 23, 2012 at 9:00 a.m., or as convenient for the Court.

Dated: December 13, 2011



Honorable Jeffrey S. White
United States District Judge