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16 **UNITED STATES DISTRICT COURT**
17 **NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION**

19 LORA AND CLAY WOLPH, on behalf of
themselves and all others similarly situated,
20
Plaintiffs,
21
vs.
22 ACER AMERICA CORPORATION, a
23 California corporation,
24 Defendant.

CASE NO. CV-09-01314 JSW

CLASS ACTION

**JOINT STIPULATION AND ~~[PROPOSED]~~
ORDER TO SHORTEN TIME ON THE
HEARING DATE AND BRIEFING
SCHEDULE REGARDING PLAINTIFFS'
MOTION TO STRIKE TESTIMONY OF
ALAN JAY SMITH, PH.D. [LOCAL RULE
6-2]**

1 Plaintiffs LORA AND CLAY WOLPH (“PLAINTIFFS”) and Defendant ACER
2 AMERICA CORPORATION (“DEFENDANT”) hereby enter the following Joint Stipulation and
3 [Proposed] Order to Shorten Time on the Hearing Date and Briefing Schedule Regarding
4 Plaintiffs' Motion to Strike Testimony of Alan Jay Smith, Ph.D. (“Motion to Strike”):

5 WHEREAS PLAINTIFFS’ Motion to Strike arises out of the Declaration of Alan Jay
6 Smith, Ph.D. in Support of Opposition to Plaintiffs' Motion for Class Certification submitted on
7 February 22, 2011 and the Deposition of Jay Smith, Ph.D. taken on March 1, 2011;

8 WHEREAS the non-expedited hearing date for Plaintiffs’ Motion to Strike would be on
9 April 11, 2011, currently beyond the scheduled hearing on the Motion for Class Certification on
10 March 25, 2011;

11 WHEREAS the parties stipulate and agree that Plaintiffs’ Motion to Strike is relevant to
12 Plaintiffs’ Motion for Class Certification and should be considered concurrently with Plaintiffs’
13 Motion for Class Certification;

14 WHEREAS this request for an order shortening time will not have any effect on the
15 schedule for the case, as a trial date has not been set in this matter;

16 WHEREAS Plaintiffs’ Motion to Strike does not arise out of and is not related to the
17 previous time modifications in this case, whether by stipulation or Court Order, which include the
18 following:

- 19 a. Joint Stipulation filed on July 8, 2010 (Doc. 80) and Order filed on July 9,
20 2010 (Doc. 81);
- 21 b. Joint Stipulation filed on October 14, 2010 (Doc. 91); Order filed on
22 October 15, 2010 (Doc. 92); and Amended Order filed on October 15, 2010
23 (Doc. 93);
- 24 c. Joint Stipulation filed on December 10, 2010 (Doc. 105) and Order filed on
25 December 14, 2010 (Doc. 106); and
- 26 d. Joint Stipulation filed on January 14, 2011 (Doc. 107) and Order filed
27 on January 18, 2011 (Doc. 108).

PURSUANT TO LOCAL RULE 6-2 THE PARTIES STIPULATE AND AGREE AS
FOLLOWS:

1. PLAINTIFFS' shall file their Motion to Strike Testimony of Alan Jay Smith, Ph.D. on March 7, 2011;
2. DEFENDANT'S Response to Plaintiffs' Motion to Strike the Testimony of Alan Jay Smith, Ph.D. shall be filed on or before March 15, 2011;
3. PLAINTIFFS' Reply in Support of Their Motion to Strike the Testimony of Alan Jay Smith, Ph.D. shall be filed on or before March 18, 2011; and
4. The hearing on Plaintiffs' Motion to Strike the Testimony of Alan Jay Smith will be heard on March 25, 2011, at 9:00 a.m., in conjunction with the hearing on Plaintiffs' Motion of Class Certification.

IT IS SO STIPULATED

DATED: March 7, 2011

/s/

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Attorneys for Plaintiffs and the Proposed Class

Pursuant to General Order 45, I, Daniel L. Warshaw, attest that Chad Stegeman has provided his authority and concurrence to file the instant document and place his electronic signature on the document, as set forth below.

DATED: March 7, 2011

/s/
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PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: March 8, 2011


Honorable Jeffrey S. White
UNITED STATES DISTRICT COURT