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 19 and Lennar Corporation dba Lennar Homes

20 UNITED STATES DISTRICT COURT  
 21 NORTHERN DISTRICT OF CALIFORNIA

22 ERIC GUNDERSEN, on behalf of himself  
 and all others similarly situated,

23 Plaintiff,

24 v.

25 LENNAR ASSOCIATES MANAGEMENT,  
 26 LLC; LENNAR CORPORATION dba  
 LENNAR HOMES, and DOES 1 - 10,  
 27 inclusive,

28 Defendants.

Case No. C-09-2270 CRB

STIPULATED MOTION [AND  
~~PROPOSED~~ ORDER] TO STAY  
 PROCEEDINGS

Honorable Charles R. Breyer

STIPULATED MOTION TO STAY  
 C-09-2270 CRB

1 Subject to the approval of the Court, Plaintiff Eric Gundersen (“Plaintiff”) and defendants  
2 Lennar Associates Management, LLC, and Lennar Corporation dba Lennar Homes (“Lennar” or  
3 “Defendants”), through their respective counsel of record, hereby stipulate to a stay of all  
4 proceedings, as set forth below, and they show the following:

5 1. The parties attended mediation with David Rotman in March 2010, and they have  
6 been negotiating settlement in good faith since then. The parties have reached a tentative  
7 agreement on several terms for settlement, including confidentiality. The parties believe that a  
8 brief stay of proceedings will assist them in focusing on finalizing proposed settlement terms and  
9 will help mitigate against incurring unnecessary legal fees and costs.

10 2. This lawsuit was filed on April 20, 2009.

11 3. No trial date has been set in this matter, and this matter has not previously been  
12 stayed.

13 4. Four motions are currently pending and set for hearing on November 12, 2010.  
14 *See* D.E. 139, Order Resetting Hearings to November 12, 2010. Those hearings are: (1)  
15 Plaintiff’s motion for leave to file an amended complaint to add FLSA claims, (2) Plaintiff’s  
16 motion for conditional certification and notice under the FLSA, (3) Lennar’s motion to deny class  
17 certification under Rule 23 of the Federal Rules of Civil Procedure, and (4) Plaintiff’s motion to  
18 dismiss Lennar’s Counterclaim. [D.E. #46, 59/61, 100, and 132, respectively].

19 5. No other deadlines or events are scheduled in this matter.

20 6. The parties respectfully request that the motions set for hearing on November 12,  
21 2010 be stayed and that the November 12 hearings be removed from the Court’s schedule. The  
22 parties also request that the November 12th date be reserved for an uncontested Plaintiff’s Motion  
23 for Preliminary Approval of Class/Collective Action Settlement. If the parties are unable to  
24 finalize their proposed settlement and present it to the Court in time for the November 12th  
25 hearing, they will seek to reschedule the four contested motions for hearing as soon as possible  
26 thereafter.

27 7. The parties further request that this case be stayed in its entirety, under the  
28 following additional terms:

1 a. The case will be completely stayed, including issuance of any notices of  
2 this lawsuit to potential putative class members, until and including November 12, 2010 (the  
3 “Stay”);

4 b. All discovery will be stayed until November 12, 2010 and no discovery  
5 will be sent during the period of the Stay, including notices of deposition;

6 c. All motion amendment/supplementation, response, and reply deadlines  
7 associated with the motions currently set for hearing on November 12, 2010 shall be vacated and  
8 will be established, as per the Federal Rules of Civil Procedure and local rules of this Court,  
9 based on the new hearing date; and

10 d. No motions to compel or other motions or requests for relief shall be filed  
11 during the period of the Stay, except for (i) motions to enforce or extend this Stipulation, (ii)  
12 motions for review and approval of settlement (including motions to submit a proposed  
13 agreement in camera or under seal), or (iii) motions for protection to protect confidentiality  
14 associated with the proposed settlement.

15 e. The tolling agreement memorialized in paragraph 2 of the Court’s July 22,  
16 2010 Order (D.E. 139) remains in effect and the statute of limitations on Plaintiff’s proposed  
17 claim for unpaid overtime under the Fair Labor Standards Act, 29 U.S.C. §201 et. seq., is tolled  
18 for the period from and including August 20, 2010 to and including November 12, 2010. No  
19 claims shall be revived with respect to which the statute of limitations had already run as of  
20 August 20, 2010.

21 8. This brief stay is sought for purposes of judicial economy and not for any undue  
22 delay or improper purpose.

23 Dated: September 15, 2010

Respectfully submitted,

Bruckner Burch PLLC

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27 By: /s/ Richard J. (Rex) Burch  
Richard (“Rex”) J. Burch  
Counsel for Plaintiff  
28 ERIC GUNDERSEN

STIPULATED MOTION TO STAY  
C-09-2270 CRB

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Dated: September 15, 2010

MEYER WHITE LLP

By:       /s/ Cindi L. Pusateri      

Cindi L. Pusateri

Counsel for Defendants LENNAR ASSOCIATES  
MANAGEMENT, LLC and Defendant LENNAR  
CORPORATION dba LENNAR HOMES

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**ORDER**

PURSUANT TO STIPULATION, IT IS SO ORDERED.

The hearings set for November 12, 2010 are vacated, and a stay of proceeding is entered in accordance with the parties' stipulation set forth above.

Dated: September 12, 2010

