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8 Attorneys for Defendant  
 9 BMW OF NORTH AMERICA, LLC

10 UNITED STATES DISTRICT COURT  
 11 NORTHERN DISTRICT OF CALIFORNIA  
 12 (SAN FRANCISCO DIVISION)

14 TIM NGUYEN, as an individual and  
 15 CHRIS CLYNE, an individual, on behalf  
 16 of themselves and all others similarly  
 situated,

17 Plaintiffs,

18 v.

19 BMW OF NORTH AMERICA, LLC; and  
 20 DOES 1-100,

21 Defendants.

Case No. CV 10-2257 SI

**STIPULATION TO CHANGE BRIEFING  
 SCHEDULE RELATING TO BMW NA'S  
 MOTION TO STRIKE AND MOTION TO  
 DISMISS PLAINTIFFS' THIRD  
 AMENDED COMPLAINT;  
 DECLARATION OF ERIC J. KNAPP IN  
 SUPPORT THEREOF**

**[N.D. Cal. L.R. 6-2]**

1 By and through their respective counsel of record, plaintiffs Tim Nguyen and Chris Clyne,  
2 as individuals and on behalf of all others similarly situated, and Defendant BMW of North  
3 America (“BMW NA”) stipulate and agree as follows:

4 1. In the parties’ prior stipulated order signed by the Court on September 1, 2011 [Dkt.  
5 No. 54], the parties consented to a briefing schedule on Defendant BMW NA’s Motion to Strike  
6 [Dkt. No. 41] and Motion to Dismiss [Dkt. No. 42] plaintiffs’ Third Amended Complaint as  
7 follows:

8 September 16, 2011: Plaintiffs’ opposition briefs due;

9 September 20, 2011: BMW NA’s reply briefs due;

10 September 30, 2011: Hearing.

11 Additionally, the Court previously set a case management conference for October 7, 2011.

12 2. The parties have met and conferred and propose the following changes to the above  
13 briefing schedule and case management conference:

14 October 4, 2011: Plaintiffs’ opposition briefs due;

15 October 7, 2011: BMW NA’s reply briefs due;

16 October 14, 2011: Hearing;

17 November 18, 2011: Case Management Conference.

18 3. The parties request the court continue the CMC to at least 35 days after the ruling on  
19 the responsive pleadings to allow the timeline contemplated in the Court’s Scheduling Order to  
20 progress normally, i.e., to allow for: (a) a 14-day period in which to meet and confer; (b) an  
21 additional 14 days to prepare the Rule 26(f) report, initial disclosures, and the Court-mandated  
22 Joint Case Management Statement; and (c) for the Court to have 7 days to review relevant  
23 materials before the initial Case Management Conference.

24 4. Procedural History: Pursuant to Civil Local Rule 6-1(a), the parties have previously  
25 stipulated to two extensions of time for BMW NA to respond to plaintiff’s Second Amended  
26 Complaint. The first extension was up to and including August 17, 2010, and the second was up  
27 to and including September 28, 2010, whereupon BMW NA filed its dispositive motions to the  
28 Second Amended Complaint. The parties have also previously stipulated to extensions of time

1 for the briefing schedule on the dispositive motions to the Second Amended Complaint, to  
2 continue the Initial Case Management Conference, and to extend the ADR deadlines, and the  
3 Court has approved such stipulations. *See* Docket No. 14 (Aug. 5, 2010 Order); Docket No. 26  
4 (Oct. 13, 2010 Order); Docket Entry of December 3, 2010 (Order); Docket No. 29 (December 22,  
5 2010 Order); Docket No. 30 (January 3, 2011 Order). On January 14, 2011, Plaintiffs filed their  
6 Third Amended Complaint, which rendered moot BMW NA's then pending dispositive motions  
7 to the Second Amended Complaint. The parties have also previously stipulated to extensions of  
8 time for the briefing schedule on the dispositive motions to the Third Amended Complaint, to  
9 continue the Initial Case Management Conference, and to extend the ADR deadlines, and the  
10 Court has approved such stipulations. *See* Docket No. 35 (Jan. 28, 2011 Order); Docket No. 37  
11 (March 14, 2011); Docket No. 48 (July 7, 2011); Docket No. 50 (July 20, 2011); Docket No. 52  
12 (August 24, 2011); Docket No. 54 (September 1, 2011).

13 5. Pursuant to N.D. Cal. Local R. 6-1(b) and 6-2, the parties seek approval of this  
14 stipulated request for an order changing time, as the agreements set forth in paragraph 2 affect  
15 dates involving papers required to be filed with the Court and hearing and case management  
16 conference dates currently set on the Court's calendar.

17 6. Other than as discussed in paragraph 4, there have been no prior time modifications in  
18 this case.

19 Dated: September 15, 2011.

Respectfully submitted,

CARROLL, BURDICK & McDONOUGH LLP

21 By \_\_\_\_\_ /s/ Eric J. Knapp  
ERIC J. KNAPP

22 Attorneys for Defendant  
23 BMW of North America, LLC

24 Dated: September 15, 2011.

KERSHAW, CUTTER & RATINOFF LLP





1 Docket Entry of December 3, 2010 (Order); Docket No. 29 (December 22, 2010 Order); Docket  
2 No. 30 (January 3, 2011 Order). On January 14, 2011, Plaintiffs filed their Third Amended  
3 Complaint, which rendered moot BMW NA's then pending dispositive motions to the Second  
4 Amended Complaint. The parties have also previously stipulated to extensions of time for the  
5 briefing schedule on the dispositive motions to the Third Amended Complaint, to continue the  
6 Initial Case Management Conference, and to extend the ADR deadlines, and the Court has  
7 approved such stipulations. *See* Docket No. 35 (Jan. 28, 2011 Order); Docket No. 37 (March 14,  
8 2011); Docket No. 48 (July 7, 2011); Docket No. 50 (July 20, 2011); Docket No. 52 (August 24,  
9 2011); Docket No. 54 (September 1, 2011).

10 6. Pursuant to N.D. Cal. Local R. 6-1(b) and 6-2, the parties seek approval of this  
11 stipulated request for an order changing time, as the agreements set forth in paragraph 4 affect  
12 dates involving papers required to be filed with the Court and a hearing date currently set on the  
13 Court's calendar.

14 7. Other than as discussed in paragraph 5, there have been no prior time modifications in  
15 this case.

16 I declare under penalty of perjury under the laws of the United States that the foregoing is  
17 true and correct.

18 Executed this 15th day of September 2011 at San Francisco, California.

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20 */s/ Eric J. Knapp*  
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22 ERIC J. KNAPP  
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**ORDER**

For good cause shown, the Court hereby enters the Stipulation set forth above as the Order of the Court. The schedule in this case is hereby modified as follows:

- a. Plaintiff will have until October 4, 2011 to file oppositions to Defendant BMW NA's Motion to Strike [Dkt. No. 41] and Motion to Dismiss [Dkt. No. 42] plaintiffs' Third Amended Complaint;
- b. Any reply briefs relating to these motions shall be filed by October 7, 2011;
- c. The motion hearing is reset for October 14, 2011 at 9:00 a.m.; and
- d. The case management conference is reset for November 18, 2011 at 9:00 a.m..

**IT IS SO ORDERED**

Dated: 9/20, 2011

By:   
HONORABLE SUSAN ILLSTON