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15 Attorneys for Defendant
16 DIESEL, U.S.A., INC.

17 UNITED STATES DISTRICT COURT
18 NORTHERN DISTRICT OF CALIFORNIA
19 SAN FRANCISCO DIVISION

20 RYAN GREKO, an individual,) CASE NO. C 10-3492 EDL
21)
22 Plaintiff,) **STIPULATED REQUEST FOR ORDER**
23 vs.) **CONTINUING ALL SCHEDULED**
24) **DATES AND [PROPOSED] ORDER**
25 DIESEL U.S.A., INC., a New York corporation;) **AS MODIFIED**
26 and DOES 1-100, inclusive,) **[Civil L.R. 6-2]**
27) **Class Action**
28 Defendant.)
Judge: The Hon. Elizabeth D. Laporte
Courtroom: E, 15th Floor
Action Filed: August 9, 2010

STIPULATION

1
2 Subject to the approval of the Court, Plaintiff Ryan Greko (“Plaintiff”) and Defendant
3 Diesel U.S.A., Inc. (“Defendant”) (Plaintiff and Defendant are referred to hereafter as the
4 “Parties”), through their respective counsel of record, hereby AGREE and STIPULATE to a
5 120-day continuance of the trial date and pre-trial dates and deadlines in accordance with
6 Civil Local Rules 6-1 and 6-2. Good cause exists for this stipulated continuance in that: (1)
7 the Parties have agreed to convene a mediation before Jerry Spolter of JAMS on **December**
8 **27, 2011**; (2) the current schedule, which includes a dispositive motions filing deadline of
9 December 13, 2011 and a non-expert discovery cut-off and expert disclosure deadline of
10 December 30, 2011, would require the Parties to complete and bear the expense of major
11 litigation tasks, which (a) could interfere with their ability to settle the case and (b) can be
12 avoided altogether if the case does settle at mediation; and (3) on December 2, 2011 (the
13 date of this Stipulation), new defense counsel, Gordon & Rees LLP, appeared in this case
14 (*see*: Document 28).

15 In support of this Stipulation, the Parties state the following:

16 WHEREAS, on August 30, 2011, pursuant to the Parties’ previous Stipulation, the Court
17 issued an Order on Stipulated Request to Continue All Scheduled Dates (Document 27);

18 WHEREAS, the Parties are also engaged in a parallel class action lawsuit that was
19 filed prior to this lawsuit and is currently pending before the Honorable Richard Seeborg, *Ryan*
20 *Greko v. Diesel U.S.A., Inc.*, Case No. 3:10-CV-02576 (the “Class Action”);

21 WHEREAS, the Parties previously had scheduled a mediation of Plaintiff’s claims on June
22 8, 2011, before The Honorable Edward A. Infante (Ret.), which mediation was taken off
23 calendar due to Judge Infante’s surgery and the pendency in the Class Action of Defendant’s
24 Motion for Summary Judgment and Plaintiff’s Motion for Class Certification, which bore on the
25 scope of issues in the then-contemplated mediation of both cases;

26 WHEREAS, on October 26, 2011, the Court in the parallel Class Action denied
27 Defendant’s Motion for Summary Judgment and granted Plaintiff’s Motion for Class
28 Certification;

1 WHEREAS, on November 9, 2011, Defendant filed with the Ninth Circuit Court of
2 Appeals, a Petition for Permission to Appeal [the Court’s Class Certification Order in the Class
3 Action] Pursuant to Fed. R. Civ. Proc. 23(f) (the “Petition”);

4 WHEREAS, on November 14, 2011, Plaintiff filed with the Ninth Circuit a Motion to
5 Extend Time to Respond to Defendant’s Petition;

6 WHEREAS, on November 16, 2011, the Ninth Circuit granted Plaintiff’s Motion for
7 Extension, extending to December 21, 2011 the deadline for responding to Defendant’s Rule
8 23(f) Petition;

9 WHEREAS, on November 28, 2011, Defendant filed a Motion to Stay Proceedings in
10 the Class Action pending the Ninth Circuit’s ruling on Defendant’s requested appeal of the class
11 certification order;

12 WHEREAS, on December 2, 2011, new defense counsel, Gordon & Rees LLP,
13 appeared in this case and also has recently appeared in the Class Action;

14 WHEREAS, in light of the foregoing, the Parties have agreed to mediate this case
15 separately and have scheduled a mediation on **December 27, 2011**, before Jerry Spolter of
16 JAMS;

17 WHEREAS, the deadlines in the Court’s current Case Management Order stand to
18 interfere with this mediation and compromise the Parties’ ability to settle the case at mediation,
19 and the Parties believe that the continuance stipulated to herein would maximize the prospects
20 of settling this case;

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1 Now, THEREFORE, the Parties hereby submit this Stipulated Request for an Order
2 Continuing All Scheduled Dates, and request that the Court order all currently scheduled dates,
3 including, but not limited to, the discovery deadline, summary judgment hearing, expert
4 discovery deadline, pretrial conference, and trial, be continued for at least one hundred twenty
5 (120) days.

6 Respectfully submitted,

7
8 Dated: December 2, 2011

GORDON & REES, LLP

9
10 By: /s/ Brian P. Maschler
11 Brian P. Maschler
12 Attorneys for Defendant
13 DIESEL U.S.A., INC.

14
15 Dated: December 2, 2011

LAW OFFICES OF DANIEL L. FEDER

16 By: /s/ Claire Elizabeth Cochran
17 Claire Elizabeth Cochran
18 Attorneys for Plaintiff
19 RYAN GREKO

20
21
22 **ORDER**

23 Pursuant to the parties' stipulated request for a 120-day continuance of the trial date and
24 pretrial dates and deadlines, and for good cause shown, IT IS HEREBY ORDERED that the case
25 management deadlines and pretrial and trial dates previously set by the Court be continued as set
26 forth below:

- 27 • The Non-Expert Discovery Cutoff is continued from December 30, 2011 to April 30,
28 2012;
- The deadline for Initial Expert Disclosures is continued from December 30, 2011 to April
30, 2012;
- The deadline for Rebuttal Expert Disclosures is continued from January 27, 2012 to May
29, 2012;

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- The Expert Discovery Cutoff is continued from February 17, 2012 to June 19, 2012;
- The Dispositive Motion Hearing Deadline is continued from January 17, 2012 to May 22, 2012;
- The Pre-Trial conference is continued from March 19, 2012 to August 8, 2012 at 2:00 p.m.; and
- The Trial is continued from April 23, 2012 to September 10, 2012.

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: December 6, 2011

