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6 7 8 9 10 11 12 13 14 15 16 17	Raymond R. Kepner (SBN 90093) E-mail: rkepner@seyfarth.com Sara M. Poggi (SBN 259469) E-mail: spoggi@seyfarth.com 333 S. Hope Street, Suite 3900 Los Angeles, California 90071 Telephone: (213) 270-9600 Facsimile: (213) 270-9601  Attorneys for Defendant IKON OFFICE SOLUTIONS, INC.  HAMMONDLAW, PC Julian Hammond (SBN 268489) E-mail: Hammond.julian@gmail.com 1180 S. Beverly Drive, Suite 601 Los Angeles, California 90035 Telephone: (310) 601-6766 Facsimile: (310) 295-2385  Attorney for Plaintiffs TAMMI PELTON CLUCK, CEDRIC HEFFNEI ALAN KABAKOFF and BRIAN SWANSON	₹,
18	UNITED STATES DISTRICT COURT	
19	IN AND FOR THE NORTHERN DISTRICT OF CALIFORNIA	
20	SAN FRANCISCO	
21   22	TAMMI PELTON CLUCK, CEDRIC HEFFNER, ALAN KABAKOFF, and BRIAN SWANSON, individually and on behalf of all	Case No. CV 11 5027 JSW  STIPULATION AND [PROPOSED]
23	others similarly situated, )	ORDER TO STAY ACTION FOR 30 DAYS, TO CONTINUE THE
24	Plaintiffs, v.	SCHEDULING CONFERENCE AND FOR AN EXTENSION OF TIME
25   26	IKON OFFICE SOLUTIONS, INC., an Ohio Corporation,	Judge: Hon. Jeffrey S. White  Complaint Filed: October 12, 2011
27	Defendant.	FAC Filed: November 30, 2011
28		

Pursuant to Local Rule 6-2 and 7-12, Plaintiffs Tammi Pelton Cluck, Cedric Heffner, Alan Kabakoff, and Brian Swanson (collectively, the "Plaintiffs") and Defendant IKON Office Solutions, Inc. ("IKON") (collectively, the "Parties"), by and through their undersigned counsel, hereby stipulate as follows:

## **RECITALS**

Whereas, IKON filed its Motion to Dismiss and/or Motion to Strike the Class Allegations in Plaintiffs' First Amended Complaint (hereinafter the "Motion to Dismiss and Strike") on January 3, 2012, making Plaintiffs' Response due on January 17, 2012 and IKON's Reply due on January 24, 2012. (*See* Declaration of Julian Hammond ("Hammond Decl.") ¶ 2). The hearing on IKON's Motion to Dismiss and Strike is currently scheduled for April 13, 2012 at 9:00 a.m. (*Id.* at ¶ 3).

Whereas, IKON filed a Motion to Stay, or in the alternative, Transfer Action (hereinafter "Motion to Stay/Transfer") on November 22, 2011 and a Notice of Pendency of Other Actions or Proceedings on November 21, 2011. (*Id.* at ¶ 4). Plaintiffs filed their Response to the Motion to Stay/Transfer on December 4, 2011 and IKON filed its Reply on December 11, 2011. (*Id.* at ¶ 4). IKON subsequently filed an Administrative Motion Re: Continued Validity of Motion to Stay, or in the Alternative, to Transfer Action Despite Changed Circumstances (hereinafter, the "Administrative Motion"), on January 9, 2012. (*Id.* at ¶ 5). Plaintiff's Response to this Administrative Motion is due on January 13, 2012. (*Id.* at ¶ 5). The hearing on IKON's Motion Stay/Transfer is currently scheduled for April 13, 2012 at 9:00 a.m. (*Id.* at ¶ 4).

Whereas, on November 8, 2011, the Court issued an Order Setting Case Management Conference and Requiring Joint Case Management Statement (the "Order") in this action. (*Id.* at ¶ 6). The Court's Order set the initial Case Management Conference for Friday, February 3, 2012 at 1:30 p.m. (*Id.* at ¶ 6).

Whereas, the Parties are currently engaged in settlement negotiations and, in light of those settlement negotiations, Plaintiffs requested that IKON stipulate to a 30-day stay on all proceedings and IKON agreed. (Id. at  $\P$  7).

Whereas, Plaintiffs need additional time to finalize their settlement demand and have agreed to provide a demand to IKON within the next three weeks (*i.e.*, no later than February 3, 2012). (Hammond Decl. at ¶ 7).

Whereas, the Parties have agreed to stay this action for 30 days, continue the currently scheduled Case Management Conference (and all related dates) and postpone further briefing on all currently pending motions, in light of the Parties' ongoing settlement discussions. (*Id.* at ¶ 8).

Whereas if the Parties are able to resolve this matter, such resolution may most the currently pending motions before this Court. (Id. at  $\P 9$ ).

Whereas, as of the date of this Stipulation, there have been no other time modifications in this case, with the exception of two stipulations enlarging the time for IKON to respond to Plaintiffs' complaints (pursuant to Local Rule 6-1(a)). (*Id.* at  $\P$  13).

Whereas good cause exists to stay this action for 30 days, to postpone further briefing on the currently pending motions, and to continue the currently scheduled Case Management Conference, in view of the fact that the Parties may resolve this matter in the next 30 days. (*Id.* at ¶ 14). Without such a stay and postponement, the Parties would otherwise be obligated to submit, and the Court to consider, opposition and reply papers on IKON's currently pending motions, which ultimately may be unnecessary if the Parties are able to resolve this matter. (*Id.*). Without the stipulated stay and continuances, the Parties and the Court may unnecessarily be required to expend time which would impede the efficient administration of justice. (*Id.*).

## **STIPULATION**

Now, therefore, it is hereby stipulated by, between, and among the Parties through their respective counsel, that this action be stayed for 30 days, that the Case Management Conference (and all related dates) be continued and that the briefing on IKON's currently pending motions be postponed/extended, as follows:

- (1) The Parties hereby stipulate that all proceedings in this action be stayed for the next 30 days, until February 13, 2012. (*Id.* at  $\P$  7).
- (2) Plaintiffs agree that, during the next three weeks (i.e., no later than February 3, 2012), they will provide IKON with a settlement demand. (Id. at  $\P$  7).

- (3) In light of the stipulated stay, the Parties further agree that the Case Management Conference currently scheduled with the Court on Friday, February 3, 2012 at 1:30 p.m. be continued until **April 13, 2012**, at 9:00 a.m. (the same date and time as the hearing on IKON's Motion to Dismiss and Strike and Motion to Stay/Transfer) and that all corresponding dates also be continued and calculated from the new Conference date (*e.g.*, the Parties' Joint Case Management Statement would be due April 6, 2012). The parties also stipulate to change the time of the Conference (to 9:00 a.m.), to accommodate Plaintiffs' counsel's religious observance, which interferes with his ability to appear in the afternoon on a Friday. (Hammond Decl. at ¶ 12). If, for any reason, this stipulation to continue the date and time of the Conference is not granted by the Court, the Parties stipulate to change only the time of the currently-scheduled Conference to 9:00 a.m. (on February 3, 2012), to accommodate Plaintiffs' counsel's religious observance.
- (4) The Parties further stipulate that the briefing schedule on IKON's Motion to Dismiss and Strike be postponed/extended as follows:
  - a) Plaintiffs' deadline to file their Opposition to the Motion to Dismiss and Strike shall be extended by 30 days, until **February 16, 2012**. (*Id.* at ¶ 10).
  - b) IKON's deadline to file its Reply in support of its Motion to Dismiss and Strike shall be extended to **March 1, 2012** (seven (7) days after Plaintiffs' Response is due, plus an additional seven (7) days). (*Id.*).
  - c) The date and time of the hearing on IKON's Motion to Dismiss and Strike will remain the same (*i.e.* April 13, 2012 at 9:00 a.m.). (*Id.*).

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## 1 (5) Finally, the Parties stipulate that Plaintiffs' deadline to file a response to IKON's 2 Administrative Motion shall be extended 30 days, until February 13, 2012. (Id. at ¶ 11). The 3 date and time of the hearing on IKON's Motion to Stay/Transfer will remain the same (i.e., April 4 13, 2012 at 9:00 a.m.). (*Id.*). IT IS SO STIPULATED. 5 6 7 DATED: January 12, 2012 SEYFARTH SHAW LLP 8 9 /s/ Kimberly Brener Kimberly G. Brener 10 Attorneys for Defendant IKON OFFICE SOLUTIONS, INC. 11 12 DATED: January 12, 2012 HAMMONDLAW, PC 13 14 /s/ Julian Hammond Julian Hammond 15 Attorneys for Plaintiffs TAMMI PELTON CLUCK, CEDRIC HEFFNER, ALAN 16 KABAKOFF, and BRIAN SWANSON 17 18 PURSUANT TO STIPULATION, IT IS SO ORDERED. 19 20 Dated: January 18, 2012 21 22 By: HONORABLE JAMES WARE 23 24 25 26 27 28 Stipulation and [Proposed] Order to Stay Action and For Continuances/ Case No. CV 11 5027 JSW

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