

1 Stephen D. Hibbard (SBN 177865)  
 2 SHEARMAN & STERLING LLP  
 3 Four Embarcadero Center, Suite 3800  
 4 San Francisco, CA 94111  
 5 Telephone: (415) 616-1100  
 6 Fax: (415) 616-1199  
 7 Email: shibbard@shearman.com

8 *Attorneys for Defendants*  
 9 *Suntech Power Holdings Co., Ltd.,*  
 10 *Zhengrong Shi and David King*

11 [Additional counsel listed on signature page]

12

13

14

UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA

15

SCOTT BRUCE, individually and on behalf  
 of all others similarly situated,

Case No. 3:12-CV-4061-RS

16

Plaintiff,

**STIPULATION AND ~~PROPOSED~~  
 ORDER TO CONTINUE THE INITIAL  
 CASE MANAGEMENT CONFERENCE  
 AND RESET RELATED DEADLINES**

17

v.

18

SUNTECH POWER HOLDINGS CO.,  
 LTD., et al.,

19

20

Defendants.

21

22

23

24

25

26

27

28

29

30

31

32

STIPULATION AND [PROPOSED] ORDER TO CONTINUE THE INITIAL CASE  
 MANAGEMENT CONFERENCE AND RESET RELATED DEADLINES  
 NO. 3:12-CV-04061-RS

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Pursuant to Civil Local Rules 16-2 and 7-12, lead plaintiffs James Bachesta, Thanh Le, and Chen Weifeng (collectively, the “Lead Plaintiffs”) and defendants Suntech Power Holdings Co., Ltd. (“Suntech”), Zhengrong Shi and David King (collectively, the “Defendants,” and together with the Lead Plaintiffs, the “Parties”), by and through their counsel, hereby agree and stipulate that good cause exists to request an order from the Court rescheduling the Initial Case Management Conference currently set for September 19, 2013 (pursuant to the Clerk’s Notice dated January 24, 2013 (Dkt. No. 55)), and adjusting accordingly the related deadlines set forth in this Court’s August 1, 2012 Order Setting Initial Case Management Conference and ADR Deadlines (Dkt. No. 5) (the “August 1, 2012 Order”).

WHEREAS, on August 1, 2012, the initial putative class action complaint in this consolidated action was filed against Defendants Suntech, Zhengrong Shi, David King, and Amy Yi Zhang, alleging violations of Section 10(b) of the Securities Exchange Act of 1934 (“Exchange Act”), Rule 10b-5 promulgated thereunder, and Section 20(a) of the Exchange Act.

WHEREAS, pursuant to the August 1, 2012 Order, the Initial Case Management Conference was set for November 1, 2012;

WHEREAS, pursuant to a Stipulation and Order dated October 30, 2012 (Dkt. No. 33), the Initial Case Management Conference was continued to February 14, 2013;

WHEREAS, on November 13, 2012, pursuant to the Private Securities Litigation Reform Act of 1995 (“PSLRA”), the Court appointed lead plaintiffs and lead counsel in this action;

WHEREAS, on November 14, 2012, the Court consolidated this action with other related actions for pre-trial purposes;

WHEREAS, on January 24, 2013, the Lead Plaintiffs and Suntech filed a Stipulation and Proposed Order seeking adjournment of the February 14, 2013 date for the Initial Case Management Conference;

WHEREAS, pursuant to the Clerk’s Notice dated January 24, 2013, the Initial Case Management Conference was continued to September 19, 2013;

WHEREAS the Lead Plaintiffs’ Consolidated Amended Class Action Complaint (the

1 “Amended Complaint”) was filed on February 5, 2013;

2 WHEREAS Suntech filed a motion to dismiss the Amended Complaint on April 8, 2013  
3 and defendants Shi and King filed motions to dismiss on June 28, 2013;

4 WHEREAS the Lead Plaintiffs filed their opposition to the Defendants’ motions to  
5 dismiss on August 5, 2013;

6 WHEREAS the Defendants’ replies in further support of their motions to dismiss are due  
7 to be filed on September 18, 2013;

8 WHEREAS oral argument on the Defendants’ motions to dismiss is set for October 3,  
9 2013;

10 WHEREAS the Parties believe that, in order to avoid the needless waste of the Court’s  
11 and the Parties’ resources, it would be prudent to defer the initial case management conference and  
12 the completion of initial disclosures until after completion of briefing, oral argument and the  
13 Court’s decision on the Defendants’ pending motions to dismiss; and

14 WHEREAS the Parties further believe that postponement of initial disclosures and any  
15 discussions about discovery at this time is proper because the PSLRA generally stays all discovery  
16 and other proceedings, including initial disclosures, pending the disposition of motions to dismiss  
17 in securities actions such as this one. *See Medhekar v. United States Dist. Court*, 99 F.3d 325,  
18 328-29 (9th Cir. 1996) (holding F.R.C.P. 26(a)’s initial disclosure requirements are disclosures or  
19 other proceedings for purposes of PSLRA’s stay provision, and must be stayed pending disposition  
20 of motion to dismiss).

21 Accordingly, IT IS HEREBY STIPULATED AND AGREED, by the Lead Plaintiffs and  
22 the Defendants, through their undersigned counsel, subject to Court approval, as follows:

23 1. The Initial Case Management Conference is continued until December 12, 2013,  
24 or such other date as may be ordered by the Court.

25 2. This Stipulation is entered into without prejudice to any party seeking any interim  
26 relief.

27 3. Nothing in this Stipulation shall be construed as a waiver of any of the  
28 Defendants’ rights or positions in law or equity, or as a waiver of any defenses that any of the

1 Defendants would otherwise have, including, without limitation, jurisdictional defenses.

2 4. The Lead Plaintiffs and Suntech have sought two other continuations of the Initial  
3 Case Management Conference and related deadlines.

4 5. The Parties do not seek to reset these dates for the purpose of delay, and the  
5 proposed new dates will not have an effect on any pre-trial and trial dates because the Court has  
6 yet to schedule these dates.

7 WHEREFORE, the Parties respectfully request that this Court issue an order granting the  
8 Parties' request to reset the Initial Case Management Conference and related deadlines as set  
9 forth in the following [Proposed] Order.

10 **IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.**

11 Dated: August 29, 2013

COHEN MILSTEIN SELLERS & TOLL PLLC

/s/ Daniel S. Sommers

12  
13 Steven J. Toll  
14 Daniel S. Sommers (admitted *pro hac vice*)  
15 Joshua M. Kolsky  
16 Elizabeth Aniskevich  
17 1100 New York Avenue, N.W.  
18 West Tower, Suite 500  
19 Washington, D.C. 20005  
20 Telephone: (202) 408-4600  
21 Fax: (202) 408-4699

POMERANTZ GROSSMAN HUFFORD  
DAHLSTROM & GROSS LLP

22 Patrick V. Dahlstrom (admitted *pro hac vice*)  
23 Joshua B. Silverman (admitted *pro hac vice*)  
24 Louis C. Ludwig (admitted *pro hac vice*)  
25 10 South LaSalle St., Suite 3505  
26 Chicago, Illinois 60603  
27 Telephone: (312) 377-1181  
28 Fax: (312) 377-1184  
Email: pdahlstrom@pomlaw.com

*Co-Lead Counsel for Lead Plaintiffs James  
Bachesta, Thanh Le and Chen Weifeng*

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

GLANCY BINKOW & GOLDBERG LLP

Michael M. Goldberg  
Lionel Z. Glancy  
1925 Century Park East, Suite 2100  
Los Angeles, California 90067  
Telephone: (310) 201-9150  
Facsimile: (310) 201-9160

*Liaison Counsel for Lead Plaintiffs James Bachesta,  
Thanh Le and Chen Weifeng*

Dated: August 29, 2013

SHEARMAN & STERLING LLP


/s/ Jerome S. Fortinsky  
Jerome S. Fortinsky (admitted *pro hac vice*)  
H. Miriam Farber (admitted *pro hac vice*)  
599 Lexington Avenue  
New York, NY 10022  
Telephone: (212) 848-4000  
Fax: (212) 848-7179  
Email: jfortinsky@shearman.com  
mfarber@shearman.com

SHEARMAN & STERLING LLP  
Stephen D. Hibbard  
Four Embarcadero Center, Suite 3800  
San Francisco, CA 94111  
Telephone: (415) 616-1100  
Fax: (415) 616-1199  
Email: shibbard@shearman.com

*Attorneys for Defendants Suntech Power  
Holdings Co., Ltd., Zhengrong Shi and  
David King*

**PURSUANT TO STIPULATION, IT IS SO ORDERED.**

DATED: 8/30/13

  
Hon. Richard Seeborg  
United States District Judge