

1 DANIEL B. ASIMOW (No. 165661)
 2 daniel.asimow@aporter.com
 3 ARNOLD & PORTER LLP
 4 Three Embarcadero Center, 7th Floor
 5 San Francisco, CA 94111-4024
 6 Telephone: 415.471.3100
 7 Facsimile: 415.471.3400

8 KENNETH L. CHERNOF (No. 156187)
 9 kenneth.chernof@aporter.com
 10 ARNOLD & PORTER LLP
 11 555 Twelfth Street, NW
 12 Washington, DC 20004-1206
 13 Telephone: 202.942.5000
 14 Facsimile: 202.942.5999

15 Attorneys for Defendant BARNES & NOBLE,
 16 INC., a California corporation

17 UNITED STATES DISTRICT COURT
 18 NORTHERN DISTRICT OF CALIFORNIA

19 HEATHER DIEFFENBACH, individually
 20 and on behalf of all others similarly situated,

21 Plaintiff,

22 vs.

23 BARNES & NOBLE, INC., a California
 24 corporation,

25 Defendant.

Case No. 3:12-cv-05800-MMC

**STIPULATION EXTENDING TIME
 FOR DEFENDANT TO RESPOND TO
 COMPLAINT (LOCAL RULE 6-1(a))
 AND REQUESTING CONTINUANCE
 OF RELATED DEADLINES (LOCAL
 RULES 6-1(b) & 6-2); ~~PROPOSED
 ORDER~~ ORDER THEREON;
 DIRECTIONS TO DEFENDANT**
 Action Filed: November 9, 2012

RECITALS

1
2 1. Plaintiffs Heather Dieffenbach filed the instant complaint on November 9, 2012.

3 2. Defendant Barnes & Noble, Inc. was served with the complaint on or about
4 December 5, 2012.

5 3. Pursuant to stipulation and order, the date for Barnes & Noble to respond to the
6 complaint was previously extended to February 8, 2013; the last the last day for the parties to
7 meet and confer regarding initial disclosures, early settlement, ADR process, and discovery plan;
8 file ADR Certification signed by Parties and Counsel; and file either Stipulation to ADR Process
9 or Notice of Need for ADR Phone Conference was continued to February 15, 2013; the last day
10 to file. Rule 26(f) Report, complete initial disclosures or state objections in Rule 26(f) Report, and
11 file Case Management Statement was continued to February 28, 2013; and the Initial Case
12 Management Conference was reset for March 12, 2013 at 10:00 a.m. in Courtroom E, 15th Floor.

13 4. On January 10, 2013, Barnes & Noble filed a motion to transfer this action to the
14 Northern District of Illinois, where three other cases are pending that Barnes & Noble contends
15 are substantially identical to this action. The motion to transfer was set for hearing on February
16 19, 2013.

17 5. On January 22, 2013, this action was reassigned to the Honorable Maxine M.
18 Chesney. The hearing date on the motion to transfer was vacated, and has not yet been reset.

19 6. The Court has set a case management conference for March 15, 2013.

20 7. The parties believe it would be more efficient to extend the time for Barnes &
21 Noble to respond to the complaint until thirty days after the Court rules on the motion to transfer
22 in order to allow for the potential coordination of the response in this action and in other cases in
23 the Northern District of Illinois. In addition, the parties believe that the initial disclosures, ADR-
24 related deadlines, meeting of counsel, and Rule 26(f) report should be deferred until the parties
25 know whether the case will proceed in this District or in the Northern District of Illinois.

26 7. There have been the following prior modifications of time in this case: (a) an
27 extension of the date for Barnes & Noble to respond to the complaint, and (b) an extension of
28 time for the parties to meet and confer regarding initial disclosures, early settlement, ADR

1 process, and discovery plan; file ADR Certification signed by Parties and Counsel; file either
2 Stipulation to ADR Process or Notice of Need for ADR Phone Conference; and file Rule 26(f)
3 Report, complete initial disclosures or state objections in Rule 26(f) Report.

4 WHEREAS, the parties stipulate and agree as follows:

5 **STIPULATION**

6 1. The parties request that the Court reset the hearing date on the motion to transfer
7 for March 8, 2013 at 9:00 a.m. in Courtroom 7, 19th Floor, 450 Golden Gate Avenue, San
8 Francisco, CA 94102, or such other date thereafter that is convenient for the Court (however,
9 counsel are not available on March 15, 2013).

10 2. Barnes & Noble shall have up to and including the date thirty days after the Court
11 rules on the motion to transfer to answer or otherwise respond to the Complaint.

12 3. The parties request that the Court continue the case management conference
13 currently set for March 15, 2013 to the first date convenient for the Court on or after May 15,
14 2013.

15 4. The parties further request that the Court continue the following deadlines as
16 follows (a) the last day for the parties to meet and confer regarding initial disclosures, early
17 settlement, ADR process, and discovery plan; file ADR Certification signed by Parties and
18 Counsel; and file either Stipulation to ADR Process or Notice of Need for ADR Phone
19 Conference to is continued to April 15, 2013; and (b) the last day to file Rule 26(f) Report,
20 complete initial disclosures or state objections in Rule 26(f) Report, and file Case Management
21 Statement is continued to April 30, 2013.

22
23 **PROPOSED ORDER**

24 Pursuant to the stipulation of the parties, (a) the hearing on the motion to transfer shall be
25 set for ~~March 8,~~ March 22, 2013 at 9:00 a.m. in Courtroom 7, 19th Floor; (b) the last day for the parties to
26 meet and confer regarding initial disclosures, early settlement, ADR process, and discovery plan;
27 file ADR Certification signed by Parties and Counsel; and file either Stipulation to ADR Process
28 or Notice of Need for ADR Phone Conference is continued to ~~April 15,~~ April 26, 2013; (c) the last day to

1 file Rule 26(f) Report, complete initial disclosures or state objections in Rule 26(f) Report, and
2 file Case Management Statement is continued to ~~April 30~~ ^{May 10}, 2013; and (d) the Initial Case
3 Management Conference is reset for May 17, 2013 at 10:30 a.m. in Courtroom 7, 19th Floor.

4 Further, defendant is hereby DIRECTED to forthwith provide a chambers copy of its
5 Motion to Transfer Venue and declaration filed in support thereof.

6 DATED: February 11, 2013

7 
8 HON. MAXINE M. CHESNEY
9 UNITED STATES DISTRICT JUDGE

10 Approved as to form and stipulations:

11 MARKUN ZUSMAN & COMPTON LLP

12 By: /s/ William A. Baird
13 WILLIAM A. BAIRD

14 Attorneys for Plaintiff Heather Dieffenbach,
15 individually and on behalf of all others
16 similarly situated.

17 ARNOLD & PORTER LLP

18 By: /s/ Daniel B. Asimow
19 DANIEL B. ASIMOW

20 Attorneys for Defendant
21 Barnes & Noble, Inc.

22 **FILER'S ATTESTATION**

23 I, Daniel B. Asimow, am the ECF user whose ID and password are being used to file this
24 **Stipulation Extending Time for Defendant to Respond to Complaint (Local Rule 6-1(a)) and**
25 **Requesting Continuance of Related Deadlines (Local Rules 6-1(b) & 6-2); [Proposed**
26 **Order]**. In compliance with General Order 45, X.B., I hereby attest that William A. Baird has
27 concurred in this filing.

28 DATED: February 8, 2013

/s/ Daniel B. Asimow
DANIEL B. ASIMOW