

1 Angelique Adams (Pro Hac Vice)
aadam@shipmanlaw.com
2 Gary K. Shipman (Pro Hac Vice)
gshipman@shipmanlaw.com
3 William G. Wright (Pro Hac Vice)
wwright@shipmanlaw.com
4 SHIPMAN & WRIGHT, LLP
5 575 Military Cutoff Rd., Suite 106
Wilmington, NC 28405
6 Telephone: (910) 762-1990
7 Facsimile: (910) 762-6752

8 Allen M. Stewart (SBN 262594)
astewart@allenstewart.com
9 Stephanie Brooks Sherman (Pro Hac Vice)
ssherman@allenstewart.com
10 Steve Baughman Jensen (Pro Hac Vice)
sjensen@allenstewart.com
11 ALLEN STEWART, P.C.
12 325 N. St. Paul Street, Suite 4000
Dallas, Texas 75201
13 Telephone: (214) 965-8700
14 Facsimile: (214)965-8701

15 John Simon (Pro Hac Vice)
jsimon@simonlawpc.com
16 Anthony Simon (Pro Hac Vice)
asimon@simonlawpc.com
17 SIMON LAW FIRM, P.C.
800 Market Street
18 St. Louis, MO 63101
19 Telephone: (314) 241-2929
20 Facsimile: (314) 241-2029

21 Michael McShane (SBN 127944)
mmcshane@audetlaw.com
22 Jonas P. Mann (SBN 263314)
jmann@audetlaw.com
23 AUDET & PARTNERS, LLP
221 Main Street, Suite 1460
24 San Francisco, CA 94105
25 Telephone: (415) 568-2555
Facsimile: (415) 568-2556

26 ***Attorney for Alvin Todd, et al., and the Proposed Class***
27 **(Additional Plaintiffs Set Forth Below on Signature Page)**

28

1 Mark L. Eisenhut, Bar No. 185039
meisenhut@calljensen.com
2 Matthew R. Orr, Bar No. 211097
morr@calljensen.com
3 Aaron L. Renfro, Bar No. 255086
arenfro@calljensen.com
4 CALL & JENSEN
5 A Professional Corporation
610 Newport Center Drive, Suite 700
6 Newport Beach, CA 92660
7 Tel: (949) 717-3000
8 Fax: (949) 717-3100

8 Douglas B. Brown, Esq. [*Pro Hac Vice*]
9 dbrown@rumberger.com
10 Daniel J. Gerber, Esq. [*Pro Hac Vice*]
dgerber@rumberger.com
11 Samantha C. Duke, Esq. [*Pro Hac Vice*]
sduke@rumberger.com
12 RUMBERGER, KIRK & CALDWELL, P.A.
13 Lincoln Plaza, Suite 1400
300 South Orange Avenue
14 Orlando, FL 32802
15 Tel.: (407) 872-7300
Fax: (407) 841-2133

16 Attorneys for Defendants Tempur-Sealy International, Inc.,
17 formerly known as Tempur-Pedic International, Inc. and
Tempur-Pedic North America, LLC

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

21 ALVIN TODD, MELODY TODD, et al.,
individually and on behalf of all others similarly
22 situated,
23 Plaintiffs,
24 vs.
25 TEMPUR SEALY INTERNATIONAL, INC.,
26 formerly known as TEMPUR-PEDIC
INTERNATIONAL, INC. and TEMPUR-PEDIC
27 NORTH AMERICA, LLC,
28 Defendants.

Case No. 3:13-cv-04984-JST (MEJ)
**Stipulation and Order to Modify the
December 15, 2014 Scheduling Order**

Complaint Filed: October 25, 2013
Trial Date: None Set

1 Pursuant to Local Rules 6 and 7, Plaintiffs and Defendants Tempur-Sealy International,
2 Inc. and Tempur-pedic North America, LLC (collectively, “Defendants”, and, together with
3 Plaintiffs, the “Parties”), hereby stipulate and agree to the following modification of the
4 December 15, 2014 Scheduling Order:

5 **I. BACKGROUND**

6
7 1. Plaintiffs filed the original Complaint on October 25, 2013. Plaintiffs filed the
8 First Amended Complaint on November 7, 2013 and the Second Amended Complaint on August
9 29, 2014. (Doc. 63). Adams Dec. ¶ 3.

10 2. On October 17 and December 15, 2014, the Parties filed a Joint Motion and
11 Stipulation to Modify the Scheduling Order, and pursuant thereto, the Parties stipulated and
12 agreed to certain modified deadlines.

13 3. Document production from third parties is more voluminous than anticipated.
14 Both parties recognize that their expert witnesses need additional time to review and analyze
15 third party produced documents before the class certification motion, expert declaration and/or
16 reports, and expert depositions occur. Adams Dec. ¶ 4.

17 4. Both parties agree to extend certain deadlines contained in the December 15, 2014
18 Scheduling Order, for a period of up to thirty (30) days. Adams Dec. ¶ 8.

19 5. Counsel for the Plaintiffs and Defendants have stipulated and agreed, subject to
20 the Court’s approval, of the following modified deadlines that will, at most, extend the current
21 outstanding deadlines by a period of thirty (30) days, but in the event that counsel for the
22 Plaintiffs does not need the full thirty (30) days, would largely keep this matter on the current
23 schedule set by this Court.

24 6. The modification of the December 15, 2014 Scheduling Order will benefit all
25 Parties because it will enable the Parties and their experts to thoroughly develop and complete
26
27
28

1 the underlying discovery necessary to prepare and respond to Plaintiffs' motion for class
2 certification. Adams Dec. ¶ 6.

3 7. This is the third request for modification of the Scheduling Order. Adams Dec.
4 ¶ 7.

5 **II. STIPULATION**

6 8. The Parties stipulate and agree to, and request the Court order the
7 following modified deadlines:
8

9

Event	Current Deadline	Proposed Deadline
10 Deadline to file motion for class certification	June 16, 2015	July 16, 2015
11		
12 Deadline for Defendants to identify expert witnesses and provide proposed deposition dates	July 10, 2015 (or 24 days from filing the motion for class certification, whichever is sooner)	August 9, 2015
13		
14 Depositions of Plaintiffs' expert witnesses re: class certification	June 18, 2015- July 20, 2015 (or 2-34 days from filing the motion for class certification, whichever is sooner)	July 18, 2015- August 20, 2015
15		
16		
17		
18 Deadline to file opposition to motion for class certification	August 6, 2015 (or 52 days from the filing of the motion for class certification, whichever is sooner)	September 3, 2015
19		
20		
21 Depositions of Defendants' expert witnesses re: class certification	August 15, 2015 – September 9, 2015 (or 60-85 days from filing the motion for class certification, whichever is sooner)	September 14, 2015 – September 30, 2015
22		
23		
24 Deadline to file reply in support of motion for class certification	October 13, 2015 (or 119 days from filing the motion for class certification, whichever is sooner)	October 23, 2015
25		
26		
27 Class certification hearing	November 2, 2015	November 2, 2015 November 19, 2015
28		

1 Dated: June 5, 2015

2

3

BY: /s/Daniel J. Gerber
Daniel J. Gerber
RUMBERGER, KIRK & CALDWELL, P.A.
Douglas B. Brown
300 South Orange Avenue
Orlando, FL 32802
(407) 872-7300
(407) 841-2133 (fax)

4

5

6

7

8

CALL & JENSEN
A Professional Corporation
Mark L. Eisenhut
Matthew R. Orr
Aaron L. Renfro
610 Newport Center Drive, Suite 700
Newport Beach, CA 92660
(949) 717-3000
(949) 717-3100 (fax)

9

10

11

12

13

14

***Attorneys for Defendants Tempur-Sealy
International, Inc., formerly known as Tempur-
Pedic International, Inc. and Tempur-Pedic North
America, LLC***

15

16

17

BY: /s/ Angelique Adams
SHIPMAN & WRIGHT
Gary K. Shipman
William G. Wright
Angel Adams
575 Military Cutoff Road, Suite 106
Wilmington, North Carolina 28405
910/762-1990
910/762-6752 (fax)

18

19

20

21

22

23

Allen M. Stewart
ALLEN STEWART, P.C.
Allen M. Stewart (262594)
Steve Baughman Jensen
Stephanie Brooks Sherman
325 N. St. Paul Street, Suite 4000
Dallas, Texas 75201
214/965-8700
214/965-8701 (fax)

24

25

26

27

28

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

SIMON LAW FIRM, P.C.
John Simon
Anthony G. Simon
800 Market St.
St. Louis, MO 63101
314/241-2929
314/241-2029 (fax)

Attorneys for Plaintiffs, Alvin Todd, Melody Todd, Robbie Simmons, Tina White, Keith Hawkins, Thomas Comiskey, Alan Kaufman, Patricia Kaufman, Johnny Martinez, Julie Davidoff, Tracey Palmer, Toni Kibbee, Brian Stone, Sarah Stone, Kurt Anderson, Ericka Anderson, Jerry Kurcharski, Diane Kucharski and the Proposed Class

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

ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: June 8, 2015

