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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ALVIN TODD and MELODY)	Case No. 3:13-cv-04984-JST
TODD, et al., Individually and on)	
behalf of all others similarly situated,)	STIPULATION AND ORDER TO
)	MODIFY THE JUNE 4, 2014,
Plaintiffs,)	SCHEDULING ORDER
)	
vs.)	Complaint Filed: October 25, 2013
)	
TEMPUR SEALY)	Trial Date: None Set
INTERNATIONAL, INC., formerly)	
known as TEMPUR-PEDIC)	
INTERNATIONAL, INC. and)	
TEMPUR-PEDIC NORTH)	
AMERICA, LLC)	
)	
Defendants.)	
)	
)	
)	

Pursuant to Local Rules 6 and 7, Plaintiffs and Defendants Tempur Sealy International, Inc., formerly known as Tempur-Pedic International, Inc. and Tempur-

STIPULATION AND ORDER TO MODIFY THE JUNE 4, 2014, SCHEDULING ORDER

1 Pedic North America, LLC (Collectively, “Defendants” and, together with Plaintiffs,
2 known as “Parties”), hereby stipulate and agree to the following modifications of the
3 June 4, 2014, Scheduling Order.
4

5 **I. BACKGROUND**

- 6 1. Plaintiffs filed the original Complaint on October 25, 2013.
- 7 2. Plaintiffs filed the First Amended Complaint on November 7, 2013 and the
8 Second Amended Complaint on August 29, 2014.
- 9 3. The following time modifications have occurred in this case:
- 10 a. On December 5, 2013, the Parties filed their Joint Stipulation to Extend
11 Defendants’ Responsive Pleading Date to January 9, 2014.
- 12 b. On January 16, 2014, the Court entered an Order, pursuant to the Parties’
13 stipulation, extending the time for Plaintiffs to file a response to
14 Defendant’s Motion to Dismiss and Motion to Strike Plaintiffs’ Complaint.
- 15 c. On April 29, 2014, the Court entered an Order, pursuant to the Parties’
16 stipulation, to continue the case management conference. (See
17 Declaration of Angelique Adams at ¶ 9, attached as Exhibit “A”
18 (hereinafter, “Adams Decl.”).
- 19 4. The case Scheduling Order was entered on June 4, 2014, setting the deadline to
20 file the motion for class certification on January 15, 2015. Adams Decl.¶ 4.
- 21 5. The Parties have exchanged initial written discovery. Adams Decl.¶ 5.
- 22 6. The depositions of the proposed class representatives have been taken. Adams Decl.¶
23 6.
- 24 7. The depositions of the Defendants’ witnesses are currently being scheduled.
25 Adams Decl.¶ 7.
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1 8. With the exception of the Supplemental Joint Case Management Statement filed
2 June 11, 2014, which requested an extension of one week for the class certification
3 hearing, this is the first request for a modification of the June 4, 2014, Scheduling
4 Order. Adams Decl.¶ 8.

6 9. Because this is a potential class action case wherein the laws of eleven states are at
7 issue and because Defendants' ESI discovery efforts have taken longer than expected,
8 the Parties need additional time to develop and complete the underlying discovery
9 before the class certification motion deadline. Adams Decl.¶10.

11 10. The modifications of the June 4, 2014, Scheduling Order will not alter or affect
12 the class certification hearing date of July 2, 2015. Adams Decl.¶ 11.

13 11. Moreover, the modification of the June 4, 2014, Scheduling Order will not
14 adversely affect the interests of any of the Parties but will instead enable the Parties to
15 fully and thoroughly develop and complete the underlying discovery necessary to
16 prepare and respond to Plaintiffs' motion for class certification. Adams Decl.¶ 12.

18 12. The Parties conferred on October 10, October 14 and October 15, 2014, regarding
19 a modification of the June 4, 2014, Scheduling Order and have reached an agreement as
20 described below. Adams Decl.¶ 13.

22 **II. STIPULATION**

23 13. The Parties stipulate and agree to an extension of the following: 1) the deadlines
24 for Plaintiffs to file their motion for class certification, for Defendants' to file their brief
25 in opposition, and for Plaintiffs to file their reply, and 2) the deadlines for the
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27

1 depositions of Plaintiffs' and Defendants' experts regarding class certification to be
2 completed.

3
4 14. The Parties further stipulate and agree to add a deadline for the Parties to identify
5 by name the Parties' expert witnesses and also to provide proposed dates for their
6 depositions.

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

10 Event	Current Deadline	Proposed Deadline
11 Deadline for Plaintiffs to identify 12 expert witnesses and provide proposed 13 deposition dates	None.	January 16, 2015
14 Deadline to file motion for class 15 certification	January 15, 2015	February 16, 2015
16 Deadline for Defendants to identify 17 expert witnesses and provide proposed 18 deposition dates	None.	March 10, 2015
19 Depositions of Plaintiffs' expert 20 witnesses re: class certification	January 30, 2015- March 3, 2015	February 18, 2015 – March 20, 2015
21 Deadline to file opposition to motion 22 for class certification	March 25, 2015	April 6, 2015
23 Depositions of Defendants' expert 24 witnesses re: class certification	April 9, 2015 – May 9, 2015	April 15, 2015 – May 9, 2015
25 Deadline to file reply in support of 26 motion for class certification	June 13, 2015	No change.
27 Class certification hearing	July 2, 2015	No change.

28 DATED: October 17, 2014.

BY: /s/ Allen M. Stewart
Allen M. Stewart
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BY: /s/ Daniel J. Gerber
Daniel J. Gerber

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

DECLARATION OF ANGELIQUE ADAMS

I, Angelique Adams, declare:

1. I am attorney licensed to practice law in North Carolina that has been admitted *pro hac vice* to appear in this case. I am an attorney at the law firm of Shipman & Wright, LLP located in Wilmington, North Carolina, counsel of record for Plaintiffs. I have personal knowledge of the facts contained below and believe that I am competent to testify as to such facts.

2. I make this declaration in support of the Parties’ Stipulation to Modify the June 4, 2014, Scheduling Order.

3. This case is a potential class action case wherein the consumer representatives allege violations of various states’ laws in connection with Defendants’ retail sales and marketing of Tempur-pedic mattress and pillow products containing Tempur material. The consumer representatives allege, among other things, that Defendants failed to disclose that their products contained volatile organic compounds (“VOCs”) and formaldehyde.

4. The case Scheduling Order was entered on June 4, 2014, setting the deadline to file the motion for class certification on January 15, 2015.

5. The Parties have exchanged initial written discovery.

6. The depositions of the proposed class representatives have been taken.

7. The depositions of the Defendants’ witnesses are currently being scheduled.

8. With the exception of the Supplemental Joint Case Management Statement filed June 11, 2014, which requested an extension of one week for the class certification hearing, this is the first request for a modification of the June 4, 2014, Scheduling Order.

9. The following time modifications have occurred in this case:

a. On December 5, 2014, the Parties filed their Joint Stipulation to Extend Defendants’ Responsive Pleading Date to January 9, 2014.

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b. On January 16, 2014, the Court entered an Order, pursuant to the Parties' stipulation, extending the time for Plaintiffs to file a response to Defendant's Motion to Dismiss and Motion to Strike Plaintiffs' Complaint; and

c. On April 29, 2014, the Court entered an Order, pursuant to the Parties' stipulation, to continue the case management conference.

10. Because this is a potential class action case wherein the laws of eleven states are at issue and because Defendants' ESI discovery efforts have taken longer than expected, the Parties need additional time to develop and complete the underlying discovery before the class certification motion deadline.

11. The modifications of the June 4, 2014, Scheduling Order will not alter or affect the class certification hearing date of July 2, 2015.

12. The modification of the June 4, 2014, Scheduling Order will not adversely affect the interests of any of the Parties but will instead enable the Parties to fully and thoroughly develop and complete the underlying discovery necessary to prepare and respond to Plaintiffs' motion for class certification.

13. I have conferred with counsel for Defendants and they agree to the proposed modifications of the June 4, 2014, Scheduling Order.

I declare under penalty of perjury that the foregoing is true, and that this declaration is made this 17th day of October, 2014.

/s/ Angelique Adams
Angelique Adams

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ORDER

PURSUANT TO THE ABOVE STIPULATION, IT IS SO ORDERED.

Dated: October 20, 2014



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SIGNATURE CERTIFICATION

I hereby certify that the content of this document is acceptable to Daniel Gerber, counsel for Defendants and I have obtained Mr. Gerber’s authorization to affix his electronic signature to this document.

DATED: October 17, 2014.

BY: /s/ Allen M. Stewart
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CERTIFICATE OF SERVICE

I hereby certify that on October 17, 2014, I electronically filed the foregoing document described as Joint Stipulation to Modify the June 4, 2014, Scheduling Order with the Clerk of the Court using the CM/ECF System which will send notification of such filing via electronic mail to all counsel of record.

BY: /s/ Allen M. Stewart
Allen M. Stewart