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LEVI & KORSINSKY LLP
NICHOLAS I. PORRITT
ADAM M. APTON
1101 30th Street N.W., Suite 115
Washington, D.C. 20007
Tel: (202) 524-4290
Fax: (202) 333-2121
nporrit@zlk.com
aapton@zlk.com

Attorneys for Lead Plaintiff Henry Low
and Lead Counsel for Class

[Additional Counsel Listed on Signature Page]

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

IN RE ENERGY RECOVERY INC.
SECURITIES LITIGATION

) Master File No.
) 3:15-cv-00265-EMC
)
) CLASS ACTION
)
) **STIPULATION AND [PROPOSED]**
) **ORDER TO CONTINUE**
) **SCHEDULING CONFERENCE**
)
) Hon. Edward M. Chen
)

STIPULATION

1
2 **WHEREAS**, this case is a putative class action brought under the Securities Exchange Act
3 of 1934 (the “Exchange Act”);

4 **WHEREAS**, Section 21D(b)(3)(B) of the Exchange Act, 15 U.S.C. §78u-4(b)(3)(B),
5 provides for a mandatory and automatic stay of “all discovery and other proceedings” during the
6 pendency of any motion to dismiss brought in this matter;

7 **WHEREAS**, on October 9, 2015, Lead Plaintiff Henry Low (“Plaintiff”) filed the Amended
8 Class Action Consolidated Complaint for Violation of the Federal Securities Laws (the
9 “Complaint”);

10 **WHEREAS**, Defendants Energy Recovery, Inc., Thomas Rooney, and Audrey Bold
11 (collectively, “Defendants”) filed a motion to dismiss the Complaint on November 9, 2015; and

12 **WHEREAS**, the Court granted in part and denied in part Defendants’ motion to dismiss on
13 January 27, 2016, granting Plaintiff leave to amend;

14 **WHEREAS**, Plaintiff anticipates filing an amended complaint, which is currently due on or
15 before May 29, 2016 pursuant to the Court’s Order dated February 11, 2016;

16 **WHEREAS**, Defendants anticipate moving to dismiss Plaintiff’s forthcoming amended
17 complaint;

18 **WHEREAS**, Plaintiff is currently seeking to intervene in the related action styled Barnes v.
19 Energy Recovery, Inc., et al., Case No. 16-cv-00477-EMC (the “Barnes Action”), and oppose
20 Energy Recovery, Inc.’s, Motion for Order Directing Plaintiff and Plaintiff’s Counsel to Return
21 Defendant Energy Recovery, Inc.’s Documents;

22 **WHEREAS**, the Court in the Barnes Action referred Energy Recovery, Inc.’s, motion and
23 Plaintiff’s motion to intervene to Magistrate Judge Laurel Beeler pursuant to its Order dated March
24 7, 2016;

25 **WHEREAS**, Magistrate Judge Laurel Beeler has not yet set a hearing date for the pending
26 motions in the Barnes Action;

1 **WHEREAS**, the Court has set a Case Management Conference to be held on March 17,
2 2016, at 9:30 a.m., and has directed the parties to file a Case Management Statement on or before
3 March 10, 2016 (ECF No. 79);

4 **WHEREAS**, in light of Plaintiff's forthcoming amended complaint and Defendants'
5 anticipated motion to dismiss, the parties respectfully submit that it would be premature to set a case
6 schedule or develop a discovery plan at this stage of the proceedings; and

7 **WHEREAS**, the parties therefore respectfully request that the Court continue the Case
8 Management Conference to take place only after challenges to the pleadings are resolved.

9 **NOW, THEREFORE, THE PARTIES HEREBY STIPULATE AND AGREE**, subject to
10 the Court's approval, that:

11 1. The Case Management Conference, currently set for March 17, 2016 at 9:30 a.m.,
12 shall be taken off calendar.

13 2. The Case Management Conference will be rescheduled by the Court following the
14 resolution of challenges to the pleadings.

15 **IT IS SO STIPULATED.**

16 Dated: March 10, 2016

NICHOLAS I. PORRITT
ADAM M. APTON
1101 30th Street N.W., Suite 115
Washington, D.C. 20007
Tel: (202) 524-4290
Fax: (202) 333-2121

17
18
19
20 By: s/ Adam Apton
 Adam M. Apton

21
22 PUNZALAN LAW, P.C.
23 MARK PUNZALAN
24 600 Allerton St., Suite 201
 Redwood City, CA 94063

25 Attorneys for Lead Plaintiff Henry Low and
26 Lead Counsel for Class
27
28

1 Dated: March 10, 2016

PILLSBURY WINTHROP SHAW PITTMAN LLP
DAVID M. FURBUSH
2550 Hanover Street
Palo Alto, CA 94304-1115

4 By: s/ James Lindfelt
James M. Lindfelt

6 Attorneys for Defendant Energy Recovery, Inc.,
Thomas Rooney Jr. and Audrey Bold

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[PROPOSED] ORDER

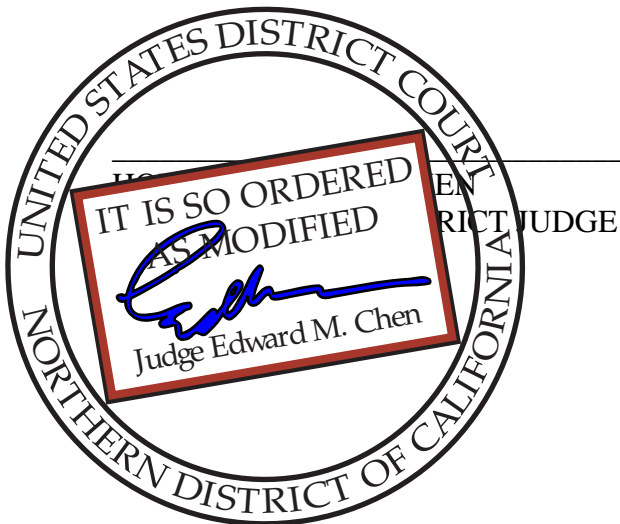
Upon review of the parties' Stipulation to Continue the Case Management Conference, and good cause appearing therefore,

IT IS HEREBY ORDERED AS FOLLOWS:

1. The Case Management Conference, currently set for March 17, 2016 at 9:30 a.m., is taken off the calendar.
2. The Case Management Conference ~~will be rescheduled by the Court following the resolution of challenges to the pleadings.~~ is reset for July 28, 2016 at 9:30 a.m. An updated joint CMC statement shall be filed by July 21, 2016.

IT IS SO ORDERED.

DATED: 3/11/16 _____



4831-9865-9883, v. 1