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11 *Attorneys for Plaintiff and the Proposed Class*

12 **UNITED STATES DISTRICT COURT**

13 **NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION**

14 WILLIAM RUSHING, Individually and on
15 Behalf of all Others Similarly Situated,

16 Plaintiff,

17 v.

18 WILLIAMS-SONOMA, INC., a Delaware
corporation, also d/b/a Williams-Sonoma And
19 Williams-Sonoma Home; WILLIAMS-
SONOMA DTC, INC., a California
20 corporation;
WILLIAMS-SONOMA
ADVERTISING, INC., a California
21 corporation;
WILLIAMS-SONOMA
STORES, INC., a California corporation;
22 POTTERY BARN, INC., a California
corporation; POTTERY BARN KIDS, INC., a
23 California corporation, also d/b/a Pottery Barn
Baby; POTTERY BARN TEEN, INC., a
24 California corporation also d/b/a PB Teen and
25 PB Dorm; WEST ELM, INC., a California
corporation; and DOES 1-30,

26 Defendants.
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Case No. 3:16-cv-01421-WHO

Assigned to the Hon. William H. Orrick

CLASS ACTION

**STIPULATED REQUEST FOR AND
ORDER:**

- (1) **GRANTING PLAINTIFF LEAVE TO
FILE SECOND AMENDED
COMPLAINT;**
- (2) **SETTING DEFENDANTS'
DEADLINE TO RESPOND TO
SECOND AMENDED COMPLAINT;**
- (3) **SETTING BRIEFING SCHEDULE
FOR DEFENDANTS' ANTICIPATED
MOTION TO DISMISS THE SECOND
AMENDED COMPLAINT; AND**
- (4) **CONTINUING JUNE 21, 2016 CASE
MANAGEMENT CONFERENCE**

28 Case No. 3:16-cv-01421-WHO

STIPULATED REQUEST FOR AND ORDER GRANTING LEAVE TO FILE SECOND
AMENDED COMPLAINT, SETTING DEADLINE TO RESPOND TO SECOND
AMENDED COMPLAINT, SETTING BRIEFING SCHEDULE, AND CONTINUING CMC

1 Pursuant to Federal Rules of Civil Procedure 15(a) and 16(b)(4) and Civil Local Rules 6-
2 1(a), 6-1(b), 6-2, 7-12, 10-1, and 16-2(e), Plaintiff and Defendants (collectively, the “Parties”),
3 by and through their respective counsel, hereby respectfully stipulate and jointly request that the
4 Court grant Plaintiff leave to file a Second Amended Complaint (“SAC”), set the time for
5 Defendants to respond to Plaintiff’s proposed Third Amended Complaint (“TAC”), set a briefing
6 schedule for Defendants’ anticipated motion to dismiss the TAC, and continue the Case
7 Management Conference currently set for June 21, 2016 (“CMC”) until after ruling on
8 Defendants’ anticipated motion to dismiss.

9 **RECITALS**

10 WHEREAS, on January 29, 2016, Plaintiff filed a Complaint in this matter in the
11 Superior Court of the State of California for the County of San Francisco.

12 WHEREAS, on March 8, 2016, Plaintiff filed a First Amended Complaint (“FAC”) in the
13 Superior Court of the State of California for the County of San Francisco.

14 WHEREAS, on March 25, 2016, Defendants removed this case to federal court pursuant
15 to the 28 U.S.C. §§ 1332, 1441, and 1446 (Doc. 1).

16 WHEREAS, on March 29, 2016, the Parties stipulated to extend Defendants’ deadline to
17 respond to the FAC from March 30, 2016 to April 20, 2016 (Doc. 5). This was the only prior
18 time modification that has been made in this case.

19 WHEREAS, on April 20, 2016, Defendants filed a motion to dismiss the FAC, which is
20 currently set for hearing on June 8, 2016 at 2:00 P.M. in Courtroom 2 (Doc. 12).

21 WHEREAS, on April 21, 2016, the Court issued an Order Setting Initial Case
22 Management Conference in this matter for June 21, 2016 at 2:00 P.M. in Courtroom 2 (Doc. 13).

23 WHEREAS, under the Court’s normal briefing schedule, Plaintiff’s deadline to respond
24 to Defendants’ motion to dismiss is May 4, 2016.

25 WHEREAS, Plaintiff seeks to amend the FAC to clarify and narrow the class definition,
26 address several of the other issues raised in Defendants’ motion to dismiss, and add additional
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1 claims, including a claim under the California Consumers Legal Remedies Act (the “CLRA”),
2 California Civil Code § 1750, *et seq.* A copy of the SAC Plaintiff seeks to file is attached hereto
3 as Exhibit A.

4 WHEREAS, the Parties agree that filing of the SAC will render Defendants’ pending
5 motion to dismiss moot.

6 WHEREAS, Plaintiff intends to submit a CLRA notice letter to Defendants on May 4,
7 2016, which notice letter Defendants have agreed to accept by email to Defendants’ counsel. If
8 Plaintiff’s CLRA claim is not resolved within 30 days of May 4, 2016, in accordance with
9 California Civil Code § 1782(b), Plaintiff plans to filed a TAC for the sole purpose of seeking
10 permissible damages for the CLRA claim alleged in the SAC. For avoidance of doubt,
11 Defendants do not waive their right to pursue any challenges to the SAC or TAC including, but
12 not limited, the addition of any damages claims under the CLRA.

13 WHEREAS, the Parties’ agree that Plaintiff’s TAC would render moot any motion to
14 dismiss the SAC.

15 WHEREAS, the Parties met and conferred on April 27, 2016, by telephone and email,
16 and agreed to the terms of this stipulation and [proposed] order and that continuing the Initial
17 Case Management Conference until after the Court has heard and ruled on Defendants’ motion to
18 dismiss the TAC will not, at this early stage, have a significant effect on the overall schedule for
19 this case and would be in the Parties’ best interests and in the interest of judicial economy by
20 allowing them to focus their attention and resources on the issues that will proceed in the
21 litigation.

22 The Parties therefore stipulate to and request that the Court issue the following order:

23 1. Pursuant to Federal Rule of Civil Procedure 15(a), Plaintiff is granted leave to file
24 a Second Amended Complaint (“SAC”) in the form attached as Exhibit A and the SAC is
25 deemed filed as of May 4, 2016.

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1 Dated: May 4, 2016

SHEPPARD MULLIN RICHTER & HAMPTON LLP

2
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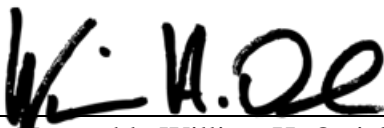
Attorneys for Defendants

9 **ORDER**

10 PURSUANT TO STIPULATION, IT IS SO ORDERED as modified below:

- 11 1. The hearing date on any motion to dismiss is **August 10, 2016 at 2 p.m.** If the
12 parties vary from the schedule set forth in the stipulation, any reply brief shall be filed
13 at least two weeks prior to the date of the hearing.
14 2. The continued Case Management Conference is set for **September 6, 2016 at 2 p.m.**

15 DATED: May 5, 2016

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17 _____
18 The Honorable William H. Orrick
19 United States District Judge
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