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21 **UNITED STATES DISTRICT COURT**
22 **NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION**

23 WILLIAM RUSHING, Individually and on
24 Behalf of all Others Similarly Situated,

25 Plaintiff,

26 v.

27 WILLIAMS-SONOMA, INC., a Delaware
28 corporation, also d/b/a Williams-Sonoma, and
Williams-Sonoma Home, Pottery Barn, PB
Teen, and PB Dorm, Pottery Barn Kids,
Pottery Barn Baby, and West Elm;
WILLIAMS-SONOMA DTC, INC., a
California corporation; WILLIAMS-
SONOMA ADVERTISING, INC., a
California corporation; and DOES 1-30,

Defendants.

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

Assigned to the Hon. William H. Orrick

CLASS ACTION

**STIPULATED REQUEST AND
ORDER:**

- (1) **EXTENDING DEADLINE TO RESPOND TO FOURTH AM. COMPLAINT;**
- (2) **SETTING DEADLINE TO RESPOND TO PROPOSED FIFTH AM. COMPLAINT;**
- (3) **SETTING BRIEFING SCHEDULE FOR ANTICIPATED MOTION TO DISMISS; AND**
- (4) **CONTINUING NOV. 8, 2016 CMC**

Complaint Filed: January 29, 2016
Action Removed: March 23, 2016
4th Am. Complaint Filed: September 14, 2016
Trial Date: None Set

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

1 **TO THE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF RECORD:**

2 Pursuant to Fed. R. Civ. P. 16(b)(4) and Northern District of California Local Rules 6-1, 6-
3 2, 7-12, and 16-2(e), Plaintiff William Rushing (“Plaintiff”) and Defendants Williams-Sonoma,
4 Inc., Williams-Sonoma DTC, Inc., and Williams-Sonoma Advertising, Inc. (collectively
5 “Defendants”), by and through their respective counsel, hereby respectfully stipulate and jointly
6 request that the Court extend Defendants’ deadline to respond to Plaintiff’s Fourth Amended Class
7 Action Complaint (“Fourth Amended Complaint”); set the time for Defendants to respond to
8 Plaintiff’s proposed Fifth Amended Class Action Complaint (“Fifth Amended Complaint”); set a
9 briefing schedule for Defendants’ anticipated motion to dismiss; and continue the Case
10 Management Conference currently set for November 8, 2016 (“CMC”) until after ruling on
11 Defendants’ anticipated motion to dismiss.

12 **RECITALS**

13 WHEREAS, Plaintiff filed his Fourth Amended Complaint (Dkt. 43) on September 14,
14 2016.

15 WHEREAS, the deadline for Defendants to respond the Fourth Amended Complaint is
16 currently October 3, 2016 (Dkt. 40).

17 WHEREAS, Plaintiff delivered an amended CLRA notice letter to Defendants on
18 September 19, 2016 and Plaintiff plans to filed a Fifth Amended Complaint for the sole purpose of
19 seeking permissible damages for the CLRA claim alleged in the Fourth Amended Complaint if
20 Plaintiff’s CLRA claim is not resolved within 30 days of Defendants’ receipt of Plaintiff’s
21 September 19, 2016 letter in accordance with California Civil Code § 1782(b). For avoidance of
22 doubt, Defendants do not waive their right to pursue any challenges to the Fourth Amended
23 Complaint or Fifth Amended Complaint including, but not limited to, the addition of any damages
24 claims under the CLRA.

25 WHEREAS, the Parties’ agree that Plaintiff’s Fifth Amended Complaint would render
26 moot any response to the Fourth Amended Complaint filed by Defendants.

27 WHEREAS, on September 26, 2016, the Court scheduled the initial CMC in this matter for
28 November 8, 2016 at 2:00 P.M. in Courtroom 2 (Doc. 46).

1 WHEREAS, Plaintiff and Defendants have met and conferred and agree that Defendants'
2 deadline to respond to the Fourth Amended Complaint should be extended until after Plaintiff files
3 his anticipated Fifth Amended Complaint, agree to the terms of this stipulation and [proposed]
4 order, and agree that continuing the CMC until after the Court has heard and ruled on Defendants'
5 motion to dismiss the Fourth Amended Complaint or Fifth Amended Complaint will not, at this
6 early stage, have a significant effect on the overall schedule for this case and would be in the
7 parties' best interests and in the interest of judicial economy by allowing them to focus their
8 attention and resources on the issues that will proceed in the litigation.

9 WHEREAS, all previous time modifications in the case are as follows:

- 10 • on March 29, 2016, the parties stipulated to extend Defendants' time to respond to
11 the First Amended Complaint from March 30, 2016 to April 20, 2016;
- 12 • on May 5, 2016, pursuant to stipulation of the parties, the Court continued the June
13 21, 2016 Case Management Conference to September 6, 2016;
- 14 • on June 23, 2016, the parties stipulated to extend Defendants' time to respond to
15 the Third Amended Complaint from June 23, 2016 to June 27, 2016;
- 16 • on August 4, 2016, pursuant to stipulation of the parties, the Court continued the
17 September 6, 2016 Case Management Conference to September 13, 2016; and
- 18 • on August 23, 2016, pursuant to stipulation of the parties, the Court continued the
19 September 13, 2016 Case Management Conference, and on September 26, 2016 the
20 Court scheduled the CMC for November 8, 2016.

21 WHEREAS, Plaintiff plans to file his Fifth Amended Complaint on or before October 24,
22 2016, but does not waive his right to file his Fifth Amended Complaint after that date as permitted
23 by California Civil Code § 1782(b).

24 WHEREAS, Defendants will respond to the Fifth Amended Complaint as set forth below;

25 WHEREAS, if Defendants file a motion to dismiss the Fifth Amended Complaint, the
26 briefing of the motion to dismiss shall be scheduled as set forth below.

27 WHEREAS, if Plaintiff does not file a Fifth Amended Complaint by October 24, 2016,
28 Defendants deadline to respond to the Fourth Amended Complaint shall be November 14, 2016;

1 WHEREAS, if Defendants file a motion to dismiss the Fourth Amended Complaint, the
2 briefing of the motion to dismiss shall be scheduled as set forth below.

3 WHEREAS, Eric DiIulio attests that Kathryn Honecker concurs in filing this stipulation.

4 **STIPULATION**

5 NOW, THEREFORE, IT IS HEREBY STIPULATED by and between the parties, by and
6 through their respective counsel, that:

7 1. If Plaintiff files a Fifth Amended Complaint by **October 24, 2016**, Defendants'
8 obligation to respond to the Fourth Amended Complaint will become moot, and Defendants will
9 respond to the Fifth Amended Complaint on or before **November 14, 2016**.

10 2. If Defendants file a motion to dismiss the Fifth Amended Complaint, the following
11 briefing schedule shall apply:

12 a. Plaintiff shall file his opposition on or before **December 6, 2016**; and

13 b. Defendants shall file their reply on or before **December 20, 2016**.

14 3. If Plaintiff advises Defendants that he intends to file a Fifth Amended Complaint
15 after October 24, 2016, the parties agree to confer regarding the briefing schedule for any motion
16 to dismiss the Fifth Amended Complaint.

17 4. If Plaintiff does not file a Fifth Amended Complaint by October 24, 2016 and
18 advises Defendants that he will not be filing a Fifth Amended Complaint on or before October 24,
19 2016, Defendants' deadline to respond to the Fourth Amended Complaint shall be **November 14,**
20 **2016**.

21 5. If Defendants file a motion to dismiss the Fourth Amended Complaint, the
22 following briefing schedule shall apply:

23 a. Plaintiff shall file his opposition on or before **December 6, 2016**; and

24 b. Defendants shall file their reply on or before **December 20, 2016**.

25 6. The CMC, currently set for **November 8, 2016**, and all related deadlines are
26 continued until at least 30 days after ruling on Defendants' motion to dismiss either the Fourth
27 Amended Complaint or Fifth Amended Complaint.

28 **IT IS SO STIPULATED.**

