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8 Lead Counsel for Plaintiffs

9 UNITED STATES DISTRICT COURT
 10 NORTHERN DISTRICT OF CALIFORNIA

11	LOGAN HESSEFORT, Individually and on)	Lead Case No. 3:18-cv-00838-JST
	Behalf of All Others Similarly Situated,)	
12)	<u>CLASS ACTION</u>
	Plaintiff,)	
13)	JOINT STIPULATION AND PROPOSED
	vs.)	ORDER RE: FILING OF CONSOLIDATED
14)	COMPLAINT BY LEAD PLAINTIFF,
	SUPER MICRO COMPUTER, INC., et al.,)	DEFENDANTS' RESPONSE THERETO,
15)	AND CONTINUING INITIAL CASE
	Defendants.)	MANAGEMENT CONFERENCE
16)	

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1 WHEREAS, on February 8, 2018, two class action complaints were filed against Defendants
2 Super Micro Computer, Inc. (the “Company”), Charles Liang, and Howard Hideshima (collectively,
3 “Defendants”): (1) *Hessefort v. Super Micro Computer, Inc.* No 3:18-cv-838 (ECF No. 1), and (2)
4 *United Union of Roofers, Waterproofers & Allied Workers Local Union No. 8 WBPA Fund v. Super*
5 *Micro Computer, Inc.*, No. 3:18-cv-850-JST (ECF No. 1) (collectively, the “Complaints”);

6 WHEREAS, the Complaints allege claims under the federal securities laws, regarding among
7 other matters the Company’s failure to timely file its 2017 Annual Report on Form 10-K and other
8 financial statements in light of an internal investigation into revenue recognition, that are subject to
9 the procedural requirements of the Private Securities Litigation Reform Act of 1995 (“Reform Act”),
10 including those set forth in 15 U.S.C. §78u-4;

11 WHEREAS, on April 9, 2018, New York Hotel Trades Council & Hotel Association of New
12 York City, Inc. Pension Fund (“Pension Fund”) moved for an order: (1) consolidating the related
13 actions pursuant to Fed. R. Civ. P. 42(a); (2) appointing the Pension Fund as lead plaintiff; and (3)
14 approving the Pension Fund’s selection of Robbins Geller Rudman & Dowd LLP (“Robbins Geller”)
15 as lead counsel;

16 WHEREAS, on May 8, 2018, the Court found *United Union of Roofers, Waterproofers &*
17 *Allied Workers Local Union No. 8 WBPA Fund v. Super Micro Computer, Inc.*, No. 3:18-cv-850 to
18 be related to *Hessefort v. Super Micro Computer, Inc.*, No 3:18-cv-838 (ECF No. 41);

19 WHEREAS, on May 9, 2018, the Clerk issued notice that the Initial Case Management
20 Conference set for May 24, 2018, was continued to August 29, 2018, and that a Joint Case
21 Management Statement was due by 5:00 p.m. on August 20, 2018 (ECF No. 42);

22 WHEREAS, on May 25, 2018, the Court appointed the Pension Fund as lead plaintiff,
23 approved Plaintiff’s selection of Robbins Geller Rudman & Dowd as lead counsel, and consolidated
24 *Hessefort v. Super Micro Computer, Inc.*, No 3:18-cv-838 and *United Union of Roofers,*
25 *Waterproofers & Allied Workers Local Union No. 8 WBPA Fund v. Super Micro Computer, Inc.*,
26 No. 3:18-cv-850. ECF No. 46;

27 WHEREAS, the Company has not yet filed its SEC Form 10-K for Fiscal Year 2017, or its
28 Forms 10-Q for the quarters ended September 30, 2017, December 31, 2017, or March 31, 2018;

1 WHEREAS, on May 10, 2018, Super Micro Computer, Inc. issued a press release stating that
2 “the Nasdaq Hearings Panel (the ‘Panel’) of The Nasdaq Stock Market (‘Nasdaq’) has granted the
3 Company’s request to continue its listing on Nasdaq through August 24, 2018, subject to the
4 condition that the Company becomes current with its [U.S. Securities and Exchange Commission
5 ‘SEC’] filings by that date . . .”;

6 WHEREAS, because the Company’s anticipated SEC filings (or potential delisting) are
7 expected by lead plaintiff to bear directly on lead plaintiff’s allegations and likely will be
8 incorporated into a consolidated complaint, the parties propose a schedule, subject to the Court’s
9 approval, that allows time for lead plaintiff to assess the content of the Company’s delinquent filings
10 with the SEC before filing the consolidated complaint, as well as the continuance of the Initial Case
11 Management Conference (and related Joint Case Management Statement);

12 WHEREAS, the proposed schedule would help avoid the unnecessary expenditure of judicial
13 resources or effort by the Court or the parties;

14 WHEREAS, undersigned counsel for Defendants are authorized to accept, and hereby does
15 accept, service of the summons and complaint in this matter on behalf of Defendants, without
16 prejudice and without waiver of any of Defendants’ defenses, objections, or arguments in this matter
17 or any other matter, except as to sufficiency of service of process; and

18 WHEREAS, Defendants intend to file a motion to dismiss, which would trigger a stay of
19 discovery under the Reform Act, 15 U.S.C. §78u-4(b)(3)(B);

20 NOW THEREFORE, the undersigned parties, by and through their counsel of record,
21 stipulate as follows:

22 1. Defendants hereby waive service of the summons and Complaint and accept service
23 of the Complaint as of the date of this Stipulation;

24 2. Lead plaintiff shall file and serve a consolidated complaint no later than September
25 24, 2018;

26 3. Defendants shall file and serve any answer or other response within forty-five (45)
27 days of service of the consolidated complaint;

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1 I, Daniel J. Pfefferbaum, am the ECF User whose ID and password are being used to file this
2 JOINT STIPULATION AND ~~PROPOSED~~ ORDER RE: FILING OF CONSOLIDATED
3 COMPLAINT BY LEAD PLAINTIFF, DEFENDANTS' RESPONSE THERETO, AND
4 CONTINUING INITIAL CASE MANAGEMENT CONFERENCE. In compliance with Local Rule
5 5-1(i)(3), I hereby attest that counsel for Defendants, Stephen D. Hibbard, concurs in this filing.

6 Dated: June 25, 2018

7 s/ Daniel J. Pfefferbaum
8 DANIEL J. PFEFFERBAUM

9 * * *

10 **ORDER**

11 IT IS SO ORDERED.

12 DATED: June 26, 2018

13 
14 THE HONORABLE JON S. TIGAR
15 UNITED STATES DISTRICT JUDGE