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7 Attorneys for Defendants  
 LENNOX HEARTH PRODUCTS INC.; LENNOX  
 8 INTERNATIONAL INC.; LENNOX INDUSTRIES  
 INC.

10 UNITED STATES DISTRICT COURT  
 11 NORTHERN DISTRICT OF CALIFORNIA

13 KIRK KEILHOLTZ and KOLLEEN  
 KEILHOLTZ for themselves and on behalf  
 14 of those similarly situated,  
 15 Plaintiffs,  
 16 v.  
 17 LENNOX HEARTH PRODUCTS INC.;  
 LENNOX INTERNATIONAL INC.;  
 18 LENNOX INDUSTRIES; and DOES 1  
 through 25, Inclusive,  
 19 Defendants.  
 20

Case No. 4:08-cv-00836-CW (JCS)

**STIPULATION AND ORDER  
 MODIFYING HEARING DATE ON  
 MOTION FOR CLASS CERTIFICATION**

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Current Hearing Date: December 3, 2009  
 Proposed Hearing Date: December 10, 2009  
 Time: 2:00 p.m.  
 Location: Courtroom 2

Original Complaint Filed: February 6, 2008

22 TO THE COURT AND ALL ATTORNEYS OF RECORD:

23 By and through their counsel of record, Plaintiffs Kirk Keilholtz and Kolleen Keilholtz  
 24 (collectively "Plaintiffs"), and Defendants Lennox Hearth Products Inc., Lennox International  
 25 Inc. and Lennox Industries Inc. (collectively "Defendants") hereby stipulate, in furtherance of  
 26 Defendants' request, to the following:

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1           1.       On July 9, 2009, the court issued a written order providing, among other things,  
2 that any hearing on Plaintiffs' Motion for Class Certification would be conducted at 2:00 p.m. on  
3 Thursday, November 12, 2009.

4           2.       On September 18, 2009, the court approved a stipulation of the parties and issued a  
5 written order providing, in pertinent part, that Plaintiffs' Motion for Class Certification would be  
6 conducted at 2:00 p.m. on Thursday, December 3, 2009.

7           3.       Counsel for Defendants states that a potential scheduling conflict on December 3,  
8 2009, has developed in the schedule of William R. Warne, lead counsel for Defendants.  
9 Specifically, Mr. Warne is lead counsel in an action pending in Sacramento County Superior  
10 Court, which was scheduled for trial on November 9, 2009. However, because a courtroom was  
11 unavailable on that day, the parties were ordered to return on November 30, 2009, for trial.  
12 Assuming a courtroom is available, trial in that action will commence on November 30, 2009,  
13 and will last for approximately three weeks. However, in the event that a courtroom is once again  
14 unavailable, Mr. Warne will be able to proceed with the hearing on the motion for class  
15 certification, but requests a one week continuance to allow adequate time to prepare, given that he  
16 will otherwise be engaged in trial preparations up to and including November 30, 2009.

17           4.       Defendants met and conferred with Plaintiffs about Mr. Warne's potential conflict  
18 on December 3rd. As a result, Plaintiffs agreed to support Defendants' request, subject to  
19 approval by the court, to move the hearing date on Plaintiffs' Motion for Class Certification to  
20 Thursday, December 10, 2009.

21           5.       Defendants further agree that absent extraordinary and unforeseen circumstances,  
22 and assuming Mr. Warne's trial does not commence on November 30th or otherwise conflict with  
23 the requested December 10 hearing date, and a request to attend the class certification hearing is  
24 denied by the trial judge, Defendants will seek no further modifications of the class certification  
25 motion schedule including the hearing date on the Motion for Class Certification.

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1 **IT IS HEREBY STIPULATED:**

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DATED: November 20, 2009

DOWNEY BRAND LLP

By:           /s/ William R. Warne            
WILLIAM R. WARNE  
Attorney for Defendants  
LENNOX HEARTH PRODUCTS INC.  
LENNOX INTERNATIONAL INC.  
LENNOX INDUSTRIES INC.

DATED: November 20, 2009


ARNOLD LAW FIRM

By:           /s/ Kirk J. Wolden (as authorized on 11-20-09)            
KIRK J. WOLDEN  
Attorney for Plaintiffs  
KIRK KEILHÖLTZ and KOLLEEN  
KEILHOLTZ for themselves and on behalf of  
those similarly situated

1 **PURSUANT TO STIPULATION, IT IS SO ORDERED:**

2 The court, having considered the Stipulation of the parties and good cause appearing,  
3 hereby orders the following change to the hearing schedule on Plaintiffs' Motion for Class  
4 Certification: (1) The December 3, 2009, hearing date is hereby vacated; (2) the Motion for Class  
5 Certification shall be heard on Thursday, December 10, 2009, at 2:00 p.m. in Courtroom 2, before  
6 the Honorable Claudia Wilken.

7 Dated: 11/23/09

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By: \_\_\_\_\_  
9 HONORABLE CLAUDIA WILKEN  
10 UNITED STATES DISTRICT JUDGE,  
11 NORTHERN DISTRICT OF CALIFORNIA

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