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19	(additional attorneys listed on signature page)			
20				
21	UNITED STATES DISTRICT COURT			
22	NORTHERN DISTRICT OF CALIFORNIA OAKLAND DIVISION			
23				
	MARTIN MURRAY, et al. Plaintiff(s),	Case No. C-09-5744-CW Class Action		
24	v.	JOINT STIPULATION TO CONTINUE CASE		
25	SEARS, ROEBUCK AND CO., et al.	MANAGEMENT CONFERENCE HEARING		
26	Defendants.	DATE AND [ <del>PROPOSED</del> ] ORDER Civil Local Rule 7-12		
27				
28		Joint Stipulation to Continue CMC <sup>1</sup>		
		C-09-5744-CW		

**IT IS HEREBY STIPULATED** by and between Plaintiff Martin Murray and Defendants Sears, Roebuck and Co. and Electrolux Home Products, Inc. through their respective counsel as follows:

## **RECITALS**

1. On January 25, 2011, this Court continued the Case Management Conference to May 3, 2011 at 2:00 p.m. in Courtroom 2 of the above-entitled Court to allow for further developments regarding the issuance of an injunction against Plaintiff Murray and his attorneys in the case of *Thorogood v. Sears, Roebuck and Co.*, Case No. 06 CV 1999, U.S. District Court, Northern District of Illinois (*"Thorogood* Case"). The Court also stayed all discovery until further order.

2. On April 14, 2011 the Parties submitted a Joint Stipulation requesting the Court to extend the May 3, 2011 Case Management Conference to June 21, 2011 [Dkt. 137], which the Court granted on April 15, 2011. [Dkt. 138].

3. Pursuant to a briefing schedule entered by the Court in the *Thorogood* Case, on February 18, 2010 [*Thorogood* Dkt. 191], Plaintiff Thorogood and Defendant Sears submitted briefing in the Northern District of Illinois regarding the appropriate scope of the injunction ordered by the United States Court of Appeals for the Seventh Circuit in *Thorogood* v. *Sears, Roebuck & Co.*, 624 F.3d 842 (7th Cir. Nov. 2, 2010) ("*Thorogood III*"). [*Thorogood* Dkt. 192, 196 & 197].

4. On March 2, 2011, Plaintiff Murray, as Co-Petitioner with Steven Thorogood, filed a Petition for Writ of Certiorari with the U.S. Supreme Court in the case of *Thorogood vs. Sears, Roebuck & Co.*, Supreme Court Case No. 10-1087 ("Petition") challenging the decision and Opinion in *Thorogood III*.

5. On April 4, 2011, Defendant Sears filed its Response to the Petition in the Supreme Court.

6. On April 18, 2011 the Northern District of Illinois entered a Memorandum Opinion and Order granting Sears' permanent injunction [*Thorogood* Dkt. 199 & 200], which was signed and entered on April 29, 2011. [*Thorogood* Dkt. 202].

7.

On April 28, 2011 Plaintiff Murray and Co-Petitioner Thorogood submitted their

**1** || Reply in support of their Petition in the Supreme Court.

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2 8. On May 17, 2011 Thorogood timely filed his Notice of Appeal in the Northern
3 District of Illinois, [*Thorogood* Dkt. 203], appealing the Northern District of Illinois' issuance of an
4 injunction. [*Thorogood* App. Case No. 11-2133, Dkt. 2].

5 9. On May 27, 2011, Defendant Sears filed its Supplemental Brief in Opposition to the
6 Petition in the Supreme Court.

10. Presently, the Parties are awaiting the Supreme Court's ruling on two matters:

- a. Murray's and Thorogood's joint Petition for Writ of Certiorari, which was conferenced by the Court on May 12, 2011, but has not yet been decided; and
- b. the Court's decision in the related matter of *Smith v. Bayer, cert. granted,* No. 09-1205, which was argued on January 18, 2011, both which should be decided before the end of the Court's term this June.

11. In addition, Thorogood's appeal of the Northern District of Illinois' injunction remains ongoing in the Seventh Circuit.

12. Accordingly, in the interests of judicial economy, deferring the Case Management Conference until July 26, 2011, a time following the end of the Supreme Court's term, plus sufficient time for the Parties to evaluate their positions in light of these upcoming decisions, is warranted.

13. Based upon the foregoing recitals, it is hereby stipulated by the parties as follows:

## **STIPULATION**

1.It is stipulated that the date for the Case Management Conference be continued fromJune 21, 2011 to July 26, 2011 at the same time and place.

[Signatures on next page]

Dated: June 10, 2011

<u>/s/ Mark Boling</u>

Mark Boling Attorneys for Plaintiff MARTIN MURRAY

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		Joint Stipulation to Continue CMC
		C-09-5744-CW

1		ORDER	
2	PURSUANT TO STIPULATIO	PURSUANT TO STIPULATION, IT IS SO ORDERED.	
3	6/16/2011		
4	Dated:6/16/2011		
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<b>ATTESTATION OF E-FILED SIGNATURE</b>
I, Eve-Lynn J. Rapp, am the ECF USER whose ID and password were used to file the attached document. In compliance with General Order 45, X.B., I hereby attest that Mark Boling, Mark C. Dosker and Mark S. Mester concurred in that filing.
Dated on June 10, 2011 at Chicago, Illinois. Respectfully submitted,
By: <u>/s/ Eve-Lynn J. Rapp</u> Eve-Lynn J. Rapp <i>Attorney for Plaintiff</i>
Joint Stipulation to Continue CMC C-09-5744-CW