

1 LAW OFFICE OF MARK BOLING
 2 Mark Boling, State Bar No. 101589
 3 21986 Cayuga Lane
 4 Lake Forest, California 92630
 5 Telephone: (949) 588-9222
 6 Facsimile: (949) 588-7078
 7 Attorneys for Plaintiff
 8 MARTIN MURRAY
 9 *(additional attorneys listed on signature page)*

10 LATHAM & WATKINS LLP
 11 Mark S. Mester *(Pro Hac Vice)*
 12 Livia M. Kiser *(Pro Hac Vice)*
 13 Kathleen P. Lally *(Pro Hac Vice)*
 14 233 South Wacker Drive, Suite 5800
 15 Chicago, Illinois 60606
 16 Telephone: (312) 876-7700
 17 Facsimile: (312) 993-9767
 18 Attorneys for Defendant
 19 ELECTROLUX HOME PRODUCTS, INC.
 20 *(additional attorneys listed on signature page)*

21 SQUIRE, SANDERS & DEMPSEY (US) LLP
 22 Mark C. Dosker (CA Bar # 114789)
 23 Julie E. Schwartz (CA Bar # 260624)
 24 275 Battery Street, Suite 2600
 25 San Francisco, California 94111
 26 Telephone: (415) 954-0200
 27 Facsimile: (415) 393-9887
 28 Attorneys for Defendant
 SEARS, ROEBUCK AND CO.
(additional attorneys listed on signature page)

**UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 OAKLAND DIVISION**

MARTIN MURRAY, et al.
 Plaintiff(s),

v.

SEARS, ROEBUCK AND CO., et al.
 Defendants.

Case No. C-09-5744-CW
 Class Action

JOINT STIPULATION TO CONTINUE CASE
 MANAGEMENT CONFERENCE HEARING
 DATE AND [~~PROPOSED~~] ORDER
 Civil Local Rule 7-12

Joint Stipulation to Continue CMC ¹
 C-09-5744-CW

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

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.

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

- 8 a. Murray's and Thorogood's joint Petition for Writ of Certiorari, which was
9 conferenced by the Court on May 12, 2011, but has not yet been decided; and
10 b. the Court's decision in the related matter of *Smith v. Bayer, cert. granted*, No. 09-
11 1205, which was argued on January 18, 2011, both which should be decided
12 before the end of the Court's term this June.

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

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

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

19 **STIPULATION**

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

22 [*Signatures on next page*]

23 Dated: June 10, 2011

24 /s/ Mark Boling
25 Mark Boling
26 Attorneys for Plaintiff
27 MARTIN MURRAY
28

1 LAW OFFICE OF MARK BOLING
2 Mark Boling, State Bar No. 101589
3 maboling@earthlink.net
4 21986 Cayuga Lane
5 Lake Forest, California 92630
6 Telephone: (949) 588-9222
7 Facsimile: (949) 588-7078

KRISLOV & ASSOCIATES, LTD.
Clinton A. Krislov / Eve-Lynn J. Rapp
(*Pro Hac Vice*)
clint@krislovlaw.com / eve@krislovlaw.com
20 North Wacker Drive, Suite 1350
Chicago, Illinois 60606
Telephone: (312) 606-0500
Facsimile: (312) 606-0207

8 Dated: June 10, 2011

/s/ Mark C. Dosker
Mark C. Dosker
Attorneys for Defendant
SEARS, ROEBUCK AND CO.

9 SQUIRE, SANDERS & DEMPSEY (US) LLP
10 Mark C. Dosker (CA Bar # 114789) /
11 Julie E. Schwartz (CA Bar #260624)
12 mdosker@ssd.com / jeschwartz@ssd.com
13 275 Battery Street, Suite 2600
14 San Francisco, California 94111
15 Telephone: (415) 954-0200
16 Facsimile: (415) 393-9887

SQUIRE, SANDERS & DEMPSEY (US) LLP
Philip M. Oliss (OH Bar #0066528)
poliss@ssd.com
4900 Key Tower
127 Public Square
Cleveland, OH 44114
Telephone: (216) 479-8500
Facsimile: (216) 479-8780

17 Dated: June 10, 2011

/s/ Mark S. Mester
Mark S. Mester
Attorneys for Defendant
ELECTROLUX HOME PRODUCTS, INC.

18 LATHAM & WATKINS LLP
19 Darius Ogloza / Heather Thompson
20 darius.ogloza@lw.com /
21 heather.thompson@lw.com
22 505 Montgomery Street, Suite 2000
23 San Francisco, California 94111-6538
24 Telephone: (415) 391-0600
25 Facsimile: (415) 395-8095

LATHAM & WATKINS LLP
Mark S. Mester / Livia M. Kiser / Kathleen P.
Lally (*Pro Hac Vice*)
mark.mester@lw.com / livia.kiser@lw.com /
kathleen.lally@lw.com
233 South Wacker Drive, Suite 5800
Chicago, Illinois 60606
Telephone: (312) 876-7700
Facsimile: (312) 993-9767

ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: 6/16/2011


United States District Judge

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ATTESTATION OF E-FILED SIGNATURE

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: /s/ Eve-Lynn J. Rapp
Eve-Lynn J. Rapp
Attorney for Plaintiff