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 23 Unilever United States, Inc. and Conopco, Inc. d/b/a Unilever Home & Personal Care USA

24 UNITED STATES DISTRICT COURT  
 25  
 26 NORTHERN DISTRICT OF CALIFORNIA  
 27  
 28 OAKLAND DIVISION

|   |   |                                    |
|---|---|------------------------------------|
| 29 JOSEPHINE WELLS and CATHERINE          | ) | Case No.: 3:13-CV-04749-SBA        |
| 30 RENY, on Behalf of Themselves and All  | ) |                                    |
| 31 Others Similarly Situated,             | ) | <u>CLASS ACTION</u>                |
|   | ) |                                    |
| 32 Plaintiffs,                            | ) | STIPULATION AND ORDER              |
| 33 vs.                                    | ) | DISMISSING THIS ACTION WITHOUT     |
|   | ) | PREJUDICE                          |
| 34 UNILEVER UNITED STATES, INC., LEK      | ) |                                    |
| 35 INC., and CONOPCO, INC. d/b/a UNILEVER | ) | <b>Local Rules 7-1(5) and 7-12</b> |
| 36 HOME & PERSONAL CARE USA,              | ) |                                    |
|   | ) |                                    |
| 37 Defendants.                            | ) |                                    |
|   | ) |                                    |

1 Pursuant to Civil L.R. 7-1(5) and 7-12, plaintiffs Josephine Wells and Catherine Reny  
2 and defendants Unilever United States, Inc. and Conopco, Inc., by their respective counsel,  
3 stipulate and agree as follows:<sup>1</sup>

4 1. Because this matter has been resolved as part of a February 7, 2014 nationwide  
5 class settlement in a related matter, *Reid, et al. v. Unilever United States, Inc., et al.*, N.D. Ill.  
6 Case No. 12-cv-6058 (the “*Reid* lawsuit”), subject to final approval, the parties respectfully ask  
7 that this Court stay or dismiss this suit pending the final approval hearing in the *Reid* lawsuit,  
8 currently set for July 9, 2014.

9 2. Plaintiffs in this case assert a variety of claims relating to a hair care product, the  
10 Suave Professionals Keratin Infusion 30 Day Smoothing Kit (the “Product”). Plaintiffs’  
11 Complaint (Dkt. #1) asserts claims for breach of warranty, violation of consumer protection  
12 statutes, false advertising, unjust enrichment, strict product liability and negligence/gross  
13 negligence on behalf of (a) a putative class consisting of all persons who purchased the Product  
14 in any state other than Alabama, Illinois, Kentucky, Nevada and Wisconsin or, in the alternative,  
15 (b) all persons who purchased the Product in the state of California. Plaintiffs’ counsel have also  
16 filed two other putative class actions alleging virtually identical claims: the *Reid* lawsuit, alleging  
17 claims on behalf of residents of Alabama, Illinois, Nevada and Wisconsin; and *Naiser v.*  
18 *Unilever United States, Inc.*, W.D. Ky. Case No. 13-cv-395, alleging claims on behalf of  
19 residents of Kentucky.

20 3. On November 25, 2013, the parties filed a Stipulation and Proposed Order (Dkt.  
21 #14) to stay all proceedings in this case until January 14, 2014 while the parties attempted to  
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26 <sup>1</sup> Defendant LEK, Inc. has not yet been served with process, and is therefore not an “affected party” whose signature  
27 is required under Civil L.R. 7-12.

1 resolve all three cases (hereafter, the “Smoothing Kit Lawsuits”) through mediation. On  
2 November 26, 2013, this Court entered an Order (Dkt. #15) granting the parties’ Stipulation and  
3 staying all proceedings until January 14, 2014.

4 4. On December 27, 2013, the Parties filed a Stipulation and Proposed Order (Dkt.  
5 #16) to extend the previously entered stay of all proceedings in this matter to February 13, 2014,  
6 defer all deadlines set forth in the Court’s October 16, 2013 Order Setting Initial Case  
7 Management Conference and ADR Deadlines (Dkt. #4), and vacate the case management  
8 conference that was scheduled for January 23, 2014. On December 30, 2013, the Court entered  
9 the order requested by the parties and stayed all proceedings until February 13, 2014. Dkt. #17.

10 5. On February 7, 2014, counsel for the named plaintiffs in this action — Josephine  
11 Wells and Catherine Reny — along with *Reid* plaintiffs Sidney Reid, Alisha Barnett, Dawn  
12 Damrow, and Fran Penell, and the *Naiser* plaintiffs Terri Naiser and Jonnie Phillips, signed and  
13 presented a Settlement Agreement (the “Settlement Agreement”) to the *Reid* court, agreeing to  
14 the resolution of all three of the Smoothing Kit Lawsuits. *Reid*, Dkt. #90-1. The Settlement  
15 Agreement provides, among other things, that plaintiffs Wells and Reny shall request that this  
16 Court stay this action or dismiss it without prejudice pending final approval of the settlement. *Id.*,  
17 ¶18.

18 6. On February 12, 2014, the Honorable Ruben Castillo of the Northern District of  
19 Illinois granted preliminary approval of the settlement, incorporating the Settlement Agreement  
20 by reference (¶1), preliminarily certifying a nationwide settlement class (¶6), and directing notice  
21 to the nationwide settlement class (¶¶13–16). *Reid*, Dkt. #96. (The Parties have attached for this  
22 Court a courtesy copy of the Preliminary Approval Order, as Exhibit 1 to this Stipulation.) In the  
23 Order, Judge Castillo (i) added named plaintiffs Josephine Wells and Catherine Reny as  
24 plaintiffs in the *Reid* action (¶2); (ii) incorporated the Settlement Agreement, which requires that  
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1 the parties move to dismiss or stay this action; (iii) stayed and suspended all pretrial proceedings  
2 in *Reid*, and stayed and enjoined the defined Settlement Class Members from the filing or pursuit  
3 of any other proceedings “based on, relating to, or arising out of the claims, assertions and causes  
4 of action raised in the [*Reid*] Action and/or the Released Claims, or the facts and circumstances  
5 relating to any of them” unless and until the court determines that a Settlement Class Member  
6 has properly excluded himself or herself from the Settlement Class. Judge Castillo has set a Final  
7 Approval hearing for July 9, 2014 at 1:30 p.m.

9 IT IS THEREFORE STIPULATED AND AGREED and the parties respectfully request  
10 through this application that the Court enter an order extending the previously entered stay of  
11 proceedings in this matter, including all discovery, or, in the alternative, that the Court dismiss  
12 this action without prejudice, until such time as Judge Castillo issues an Order in the *Reid* case  
13 regarding Final Approval of the Settlement Agreement.

15 DATED: February 18, 2014

THE MEHDI FIRM, PC

/s/

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Local Counsel for Plaintiffs

21 DATED: February 18, 2014

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/s/

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Counsel for Defendants Unilever United States,  
Inc. and Conopco, Inc.

I attest and certify that I received permission from defendants' counsel before e-filing this document and will retain proof of this permission.

DATED: February 18, 2014

THE MEHDI FIRM, PC

/s/

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Local Counsel for Plaintiffs

1 **PURSUANT TO STIPULATION AND GOOD CAUSE APPEARING, THE COURT**  
2 **ENTERS THE FOLLOWING ORDER:**

3           By stipulation of the parties, this matter is dismissed without prejudice, with each side to  
4 bear its own costs.

5 Dated: 2/19/2014

6   
7 SAUNDRA BROWN ARMSTRONG  
8 UNITED STATES SENIOR DISTRICT JUDGE  
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**CERTIFICATE OF SERVICE**

I hereby certify that on, I authorized the electronic filing of the Stipulation and [Proposed] Order Extending Stay or Dismissing this Action Without Prejudice, with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the e-mail addresses denoted on the attached Electronic Mail Notice.

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on February 18, 2014.

\_\_\_\_\_  
/s/  
AZRA Z. MEHDI