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12 **UNITED STATES DISTRICT COURT**
 13 **NORTHERN DISTRICT OF CALIFORNIA**
 14 **OAKLAND DIVISION**

15 ROBYN JUDELSON, on behalf of herself and
 16 all others similarly situated,

17 Plaintiff,

18 vs.

19 FITBIT, INC.,

20 Defendant.

Case No. 4:14-CV-01287-CW
 (Related Case No. 4:14-CV-01350-CW)

**STIPULATION AND ~~PROPOSED~~ ORDER
 TO CONTINUE BRIEFING SCHEDULE AND
 HEARING ON FITBIT'S MOTION TO
 DISMISS AND TO CONTINUE THE CASE
 MANAGEMENT CONFERENCE**

21 This document also relates to:

22 GEORGE REED, RANDI AKANA, MILISSA
 23 MORGAN, KYLE MCCLOUD, LAURIE
 24 MCGUIRE, and MICHAEL BASKHARON,
 25 individually, and on behalf of all others similarly
 26 situated,

27 Plaintiffs,

28 v.

FITBIT, INC., and DOES 1 through 10, Inclusive,

Defendants.

Case No. 4:14-CV-01350-CW
 (Related Case No. 4:14-CV-01287-CW)

Hon. Claudia Wilken

**STIPULATION AND ~~PROPOSED~~ ORDER TO CONTINUE BRIEFING AND HEARING ON
 FITBIT'S MOTION TO DISMISS AND CONTINUE THE CASE MANAGEMENT CONFERENCE
 CASE NO. 4:14-CW-01287-CW**

1 Plaintiffs Robyn Judelsohn, George Reed, Randi Akana, Milissa Morgan, Kyle McCloud, Laurie
2 McGuire, and Michael Baskharon (collectively, “Plaintiffs”), and Defendant Fitbit, Inc. (“Fitbit”), by
3 and through their respective counsel, respectfully request that the Court continue the briefing schedule
4 and hearing date on Fitbit’s motions to dismiss as well as to continue the upcoming case management
5 conference. A brief summary of the relevant background in support of this request is set forth as
6 follows:

7 1. On March 20, 2014, Plaintiff Judelsohn filed a proposed class action complaint against
8 Fitbit, Case No. 4:14-CV-01287-CW (“*Judelsohn* Action”), in the Northern District of California. The
9 *Judelsohn* Action generally alleges that Fitbit violated California consumer protection laws, including
10 the California Unfair Competition Law (Cal. Bus. & Prof. Code §§ 17200, *et seq.*) and the California
11 Consumers Legal Remedies Act (Cal. Civ. Code §§ 1750, *et seq.*), through its alleged
12 misrepresentations regarding the marketing and sale of Fitbit’s Force™ Wireless Activity + Sleep
13 Wristband (“Force Wristband”).

14 2. On March 24, 2014, Plaintiffs George Reed, Randi Akana, Milissa Morgan, Kyle
15 McCloud, Laurie McGuire, and Michael Baskharon filed a class action complaint in *Reed, et al. v.*
16 *Fitbit, Inc.*, Case No. 4:14-CV-01350-CW (“*Reed* Action”), in the Northern District of California. The
17 *Reed* Action asserts substantially similar claims to those alleged against Fitbit in the *Judelsohn* Action
18 on behalf of substantially similar, if not identical, proposed classes. On April 1, 2014, the Court granted
19 Plaintiff Judelsohn’s motion to relate the *Judelsohn* and *Reed* Actions pursuant to Local Civil Rule 3-
20 12(a).

21 3. Fitbit has accepted service of the summonses and *Reed* and *Judelsohn* complaints and
22 filed motions to dismiss both cases on July 1, 2014.

23 4. On July 18, 2014, the Court issued an order consolidating briefing on both motions to
24 dismiss in the *Judelsohn* and *Reed* Actions and set a consolidated hearing and case management
25 conference for both matters on August 28, 2014. Plaintiffs’ joint opposition to Fitbit’s Motions to
26 Dismiss is currently due July 31, 2014, and Fitbit’s reply brief is currently due on August 14, 2014.

27 5. Since receipt of the Court’s July 18, 2014 order consolidating the briefing on Fitbit’s
28 motions to dismiss, counsel for all parties have conferred and agree that in light of ongoing settlement

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Attorneys for Defendant Fitbit, Inc.


1 **~~PROPOSED~~ ORDER**

2 The above Stipulation of the parties having been considered by the Court and good cause
3 appearing therefore, the Court hereby orders as follows:

- 4 1. Plaintiffs shall have up and until September 5, 2014, to file an opposition brief to Fitbit's
- 5 motion to dismiss. Fitbit shall have until September 19, 2014 to file its reply memorandum.
- 6 2. The August 28, 2014 hearing date on the motions and case management conference is
- 7 continued to October 2, 2014. Any other deadlines pursuant to the Federal Rules of Civil
- 8 Procedure and Civil Local Rules running from such date are reset and will recommence upon
- 9 the Court's order granting this stipulation.

10 **PURUSANT TO STIPULATION, IT IS SO ORDERED.**

11
12 Dated: 7/31/2014


13 The Honorable Claudia Wilken
14 UNITED STATES DISTRICT JUDGE

15 **ECF ATTESTATION**

16 I, Eric H. Gibbs, am the ECF User whose ID and Password are being used to file this document.
17 In compliance with Local Rule 5-1(i)(3), I hereby attest that all other signatories listed have concurred in
18 this filing.

19
20 Dated: July 29, 2014

GIRARD GIBBS LLP

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22 By: /s/ Eric H. Gibbs

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