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 NISSAN NORTH AMERICA, INC.

11
 12 UNITED STATES DISTRICT COURT
 13 NORTHERN DISTRICT OF CALIFORNIA
 14 OAKLAND DIVISION

16 MICHELLE FALK, INDHU JAYAVELU,
 17 PATRICIA L. CRUZ, DANIELLE TROTTER,
 18 AND AMANDA MACRI, individually and on
 behalf of all others similarly situated,

19 Plaintiffs,

20 v.

21 NISSAN NORTH AMERICA, INC.,

22 Defendant.

Case No. 4:17-cv-04871-HSG

**JOINT STIPULATION REGARDING
 THE FILING OF PLAINTIFFS' FIRST
 AMENDED COMPLAINT AND
 DEFENDANT'S RESPONSE
 THERETO; DECLARATION OF M.
 STORTZ; ~~PROPOSED~~ ORDER**

1 Defendant Nissan North America, Inc. (“NNA”) and Plaintiffs Michelle Falk, Indhu
2 Jayavelu, Patricia L. Cruz, Danielle Trotter, and Amanda Macri (“Plaintiffs”), by and through
3 their respective undersigned counsel of record, hereby stipulate to agree as follows:

4 WHEREAS, on August 22, 2017, Plaintiffs filed their 14-count Complaint against NNA.
5 See Dkt. No. 1. Plaintiffs served their Complaint on August 30, 2017. NNA’s current responsive
6 pleading deadline is September 20, 2017.

7 WHEREAS, Plaintiffs intend to file an amended complaint on or about September 27,
8 2017, in which they will (1) add claims for monetary damages pursuant to the California
9 Consumers Legal Remedies Act, Cal. Civ. Code § 1750 *et seq.* on behalf of Plaintiff Michelle
10 Falk and the putative California Subclass; and (2) add claims on behalf of a newly added Plaintiff,
11 Cynthia M. Garrison, a resident of Massachusetts, and a putative class of Massachusetts
12 purchasers.

13 WHEREAS, the Parties through counsel have met and conferred regarding the filing of
14 Plaintiffs’ amended complaint and the scheduling of NNA’s response to same.

15 WHEREAS, in response to Plaintiffs’ amended complaint, NNA plans to file a motion to
16 dismiss pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure.

17 WHEREAS, to permit the Parties adequate time to brief the issues raised in Plaintiffs’
18 amended complaint, the Parties have agreed to extend the time for NNA to file its motion to
19 dismiss and to a modest adjustment of the briefing schedule in connection with same.
20 Specifically, the Parties agree that NNA’s motion to dismiss will be due October 26, 2017;
21 Plaintiffs’ Opposition will be due December 1, 2017; NNA’s Reply will be due December 21,
22 2017; and the hearing on the motion to dismiss will be set for January 11, 2018 at 2:00 p.m.

23 WHEREAS, the schedule set forth herein will not otherwise impact any deadlines
24 previously set by the Court.

25 THEREFORE, the Parties hereby stipulate and agree as follows:

- 26 (1) Plaintiffs shall file their amended complaint on or before September 27, 2017;
27 (2) NNA shall file its motion to dismiss on or before October 26, 2017;

- 1 (3) Plaintiffs shall file their opposition to NNA's motion to dismiss by December 1, 2017;
2 (4) NNA shall file its reply to Plaintiffs' opposition by December 21, 2017; and
3 (5) The hearing on NNA's motion to dismiss will be set for January 11, 2018 at 2:00 p.m.

4
5 Dated: September 19, 2017

DRINKER BIDDLE & REATH LLP

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7 By: /s/ Michael J. Stortz

8 Michael J. Stortz
Marshall L. Baker

9 Attorneys for Defendant
NISSAN NORTH AMERICA, INC.

10
11 Dated: September 19, 2017

BRONSTEIN GEWIRTZ & GROSSMAN

12
13 By: /s/ Shimon Yiftach

14 Shimon Yiftach

Attorneys for Plaintiffs

15 **Attestation Pursuant to Civil Local Rule 5-1(i)**

16 Pursuant to Civil Local Rule 5-1(i), I, Michael J. Stortz, hereby attest that I have obtained
17 concurrence in the filing of this document from the other signatory to this document.

18 I declare under penalty of perjury under the laws of the United States of America that the
19 foregoing is true and correct. Executed this 19th day of September, 2017 in San Francisco,
20 California.

21 By: /s/ Michael J. Stortz

22 Michael J. Stortz

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DECLARATION OF MICHAEL J. STORTZ

I, Michael J. Stortz, declare as follows:

1. I am a member of the Bar of the State of California, admitted to practice before this Court, and a partner in the firm of Drinker Biddle & Reath LLP, attorneys of record for Defendant Nissan North America, Inc. (“NNA”) in the above-entitled action. Pursuant to Civil L.R. 6-2, I make this Declaration in support of Defendant’s and Plaintiffs’ (collectively, the “Parties”) Joint Stipulation Regarding Plaintiffs’ Filing of a First Amended Complaint and Defendant’s Response Thereto. If called, I would testify to the matters set forth herein.

2. On August 22, 2017, Plaintiffs filed their Complaint. *See* Dkt. No. 1. Plaintiffs served their Complaint on August 30, 2017.

3. Following meet and confer of counsel, I am informed and believe that Plaintiffs intend to file an amended complaint on or before September 27, 2017, in which they will (1) add claims for monetary damages pursuant to the California Consumers Legal Remedies Act, Cal. Civ. Code § 1750 *et seq.* on behalf of Plaintiff Michelle Falk and the putative California Subclass; and (2) add claims on behalf of a newly added Plaintiff, Cynthia M. Garrison, a resident of Massachusetts, and a putative class of Massachusetts purchasers.

4. I have met and conferred with Plaintiffs’ counsel regarding the filing of the amended complaint and the scheduling of NNA’s response to same.

5. NNA currently plans to file a motion to dismiss under Rule 12(b)(6) of the Federal Rules of Civil Procedure in response to Plaintiffs’ amended complaint.

6. To permit the Parties adequate time to brief the issues raised in Plaintiffs’ amended complaint, the Parties have agreed to extend the time for NNA to file its motion to dismiss and to a modest adjustment of the briefing schedule in connection with same.

7. Specifically, the Parties agree that NNA’s motion to dismiss will be due October 26, 2017; Plaintiffs’ Opposition will be due December 1, 2017; NNA’s Reply will be due December 21, 2017; and the hearing on the motion to dismiss will be set for January 11, 2018 at 2:00 p.m.

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8. This continuance will not otherwise impact any deadlines set by the Court.

9. The other time modifications in this case include: (1) Clerk’s Notice of Impending Reassignment to a U.S. District Court Judge (Dkt. No. 9); (2) Clerk’s Notice Resetting Case Management Conference (Dkt. No. 13); and (3) corrected Clerk’s Notice Setting Case Management Conference (Dkt. No. 14).

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 19th day of September, 2017 at San Francisco, California.


/s/ Michael J. Stortz
Michael J. Stortz

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~~PROPOSED~~ ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Date: 9/20/2017


Hon. Haywood S. Gilliam, Jr.
UNITED STATES DISTRICT JUDGE