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 9 AMERICAN HONDA MOTOR CO., INC.

10 [additional counsel listed in signature block]

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

15 JOSE ELIAS MORALES AGUIRRE, on behalf
 16 of himself and other similarly situated,

17 Plaintiffs,

18 v.

19 AMERICAN HONDA MOTOR CO., INC.,

20 Defendant.

Case No. 4:22-cv-06909-HSG

**FURTHER JOINT STIPULATION AND
 ORDER TO MODIFY CASE
 SCHEDULE (as modified)**

1 Plaintiff Jose Elias Morales Aguirre (“Plaintiff”) and Defendant American Honda Motor
2 Co., Inc. (“AHM” or “Defendant”) (collectively the “Parties”) respectfully submit this request to
3 further extend the case schedule to complete additional discovery necessary for briefing class
4 certification. Despite the Parties’ exercise of “painful diligence” since the last hearing and the
5 issuance of the operative Scheduling Order (ECF 52), discovery is not complete and has been
6 disrupted by the recent Los Angeles fires. For good cause shown, as set forth in detail below, the
7 Parties request an additional ninety (90) days to complete the deposition of CARB, obtain additional
8 CARB documents, complete the 30(b)(6) of AHM, assimilate all information for effective briefing
9 of class certification, and brief the certification motion.

10 **PROCEDURAL BACKGROUND**

11 On July 8, 2024, the Parties submitted a proposed Joint Stipulation and Order to Modify
12 Case Schedule (ECF 48). This was the first requested extension of the dates in this putative class
13 action. The request was for a roughly six-month extension, with the fact discovery deadline
14 extended from September 14, 2024, to March 3, 2025.

15 On July 9, 2024, the Court held a Case Management Conference and ordered that the
16 scheduling issue would be revisited at a further conference to be held on August 13, 2024, after
17 additional discovery. The Court further instructed the Parties to suggest new revised dates based on
18 the exercise of “painful diligence” in determining a reasonable request for extending the discovery
19 schedule and that, if the Parties could agree, to submit a revised stipulation and proposed order to
20 modify the case schedule by August 12, 2024. ECF 50.

21 Subsequently, the Parties submitted an updated Stipulation to extend the dates by four
22 months (ECF 51), which the Court approved and entered as the current operative Scheduling Order.
23 ECF 52. The discovery accomplished to date as a result of the Parties’ “painful diligence” since
24 issuance of the current Order includes: (i) three additional document productions by AHM on
25 September 23, 2024, November 1, 2024, and as recently as December 4, 2024, derived from an
26 exhaustive list of search terms that the Parties met and conferred on for several weeks and which
27 were necessary for a complete production; (ii) the 30(b)(6) deposition of AHM, which was not
28 completed; (iii) the deposition of CARB, which was not completed; (iv) a second set of document

1 demands, and an initial set of requests for admissions and special interrogatories propounded by
2 AHM on Plaintiff; (v) AHM’s subpoena to CARB for relevant documents and information; and,
3 (vi) scheduling Plaintiff’s deposition. In addition, as required by the current deadlines, a mediation
4 took place on January 15, 2025. However, the case did not settle, making the remaining discovery
5 even more critical for certification.

6 **FACTS SUPPORTING ADDITIONAL REQUESTED TIME**

7 The 30(b)(6) deposition of AHM was not completed on August 8, 2024, and was scheduled
8 to be completed on January 9, 2025. However, on January 8, 2025, AHM canceled the deposition
9 due to the emergency evacuation and the unavailability of its handling counsel impacted by the Los
10 Angeles fires, and whose home was lost in the Los Angeles “Eaton” fire hours thereafter. AHM’s
11 Los Angeles lead counsel who might otherwise have assisted in covering discovery activities this
12 month was also subject to an emergency evacuation that same day, and his home was lost to the
13 “Palisades” fire hours later. The Parties are in the process of rescheduling the deposition, but, in
14 light of the fire impacts, the Parties are unable to confirm new dates prior to the current discovery
15 cutoff.

16 The deposition of a CARB representative took place on December 5, 2024, regarding
17 CARB’s position as to whether the head gasket at issue in this case is a “warranted part” under the
18 California Emissions Warranty. The CARB deposition did not conclude that day, and Plaintiff
19 immediately sought to coordinate with CARB and all counsel to schedule the second session of the
20 deposition as soon as possible. However, due to the holidays, and despite the best efforts of CARB
21 and the State AG defending the CARB deponent, and all counsel (including consideration of
22 multiple proposed dates), the deposition is now being re-set for February 21, 2025, which is the
23 soonest date that all participants are available.

24 Plaintiff also requested that CARB supplement its production based on information adduced
25 during the first session of the CARB deposition by producing additional documents (including
26 internal analyses, memoranda, emails, and notes) related to whether the head gasket is warranted
27 under the Emissions Warranty. Based on the first deposition, in December 2024, AHM also
28

1 subpoenaed documents from CARB following its deposition. CARB is searching for documents,
2 but they will not be produced before either the current discovery cutoff or the deadline for Plaintiff's
3 opening class certification brief. CARB anticipates it will take at least four weeks to produce
4 additional documents.

5 In addition, Plaintiff has sold his vehicle, AHM is working with Plaintiff to track down
6 contact details of the current owner to try to secure an inspection of the vehicle, and additional time
7 is needed for this.

8 The Parties require all of the foregoing discovery, including deposition testimony and
9 documents, to adequately brief certification, which the Parties cannot do under the current schedule,
10 which requires Plaintiff's opening brief to be filed by February 7, 2025. Moreover, the ongoing fire
11 situation has continued to impact counsel's ability to litigate this action. The office of Plaintiff's co-
12 lead counsel has been without power and subject to potential evacuations and have been granted
13 extensions to respond to discovery; key counsel for AHM is unavailable; it has been difficult to
14 reschedule witnesses; and the Parties and their counsel have been focusing on evacuation due to the
15 fires and pursuing recovery options for counsels in this case who have lost their homes. The Parties
16 reasonably believe that through the exercise of additional "painful diligence" they can conclude
17 discovery by April 21, 2025, and Plaintiff can file his class certification motion by May 8, 2025.

18 In addition, based on discovery to date and discussions between counsel, the Parties disagree
19 over a fundamental, threshold legal issue regarding the scope of emissions defect warranty coverage,
20 specifically, whether the California Regulations extend emissions defect warranty coverage to basic
21 mechanical components, such as the head gasket, in Partial Zero Emissions Vehicles (PZEVs). This
22 critical threshold legal issue is central to the claims in this case and will significantly impact the
23 scope and direction of the litigation moving forward. The Parties are considering whether it is
24 procedurally efficient for a form of a motion for legal determination to address this threshold legal
25 question, prior to the briefing of Plaintiff's certification motion. The additional time requested will
26 allow the Parties to work through this issue, and if appropriate, for a summary judgment or other
27 motion seeking a legal determination to be filed.

1 NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED that, subject to Court
2 approval, the schedule is revised as follows:

3 Activity	Current Date	Proposed Date
4 Non-Expert Discovery Cut Off (including hearing of discovery motions)	January 20, 2025	April 22, 2025
5 Deadline for motion for Class Certification, and for disclosures and reports of any experts Plaintiff intends 6 to rely on at class certification	February 7, 2025	May 8, 2025
7 Deadline for any opposition to a motion for class certification; for Defendant's disclosures and reports of 8 any experts Defendant intends to rely on at class certification; and for any motion by AHM to limit or 9 exclude Plaintiff's class certification expert testimony based on <i>Daubert</i> or any other basis	May 8, 2025	August 15, 2025
10 Deadline for Plaintiff's reply in support of a motion for class certification; deadline for Plaintiff to challenge 11 AHM's class certification expert testimony based on <i>Daubert</i> or any other basis	July 7, 2025	November 25, 2025
12 Hearing on motion for class certification	July 31, 2025	December 18, 2025

13
14 IT IS SO STIPULATED. A proposed Order is submitted concurrently.

15 Dated: January 13, 2025

Respectfully submitted,

SHOOK, HARDY & BACON L.L.P.

17 By: /s/ Amir Nassihi
18 AMIR NASSIHI

19 Attorneys for Defendant
20 AMERICAN HONDA MOTOR CO., INC.

21 Dated: January 13, 2025

Respectfully submitted,

22 POMERANTZ LLP

23 By: /s/ Ari Y. Basser
24 ARI Y. BASSER

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Attorneys for Plaintiff

CERTIFICATION OF COMPLIANCE WITH N.D. L.R. 5-1(h)(3)

Pursuant to L.R. 5-1(h)(3), I attest that concurrence in the filing of this document has been obtained from the above signatories.

By: /s/ Ari Y. Basser
Ari Y. Basser

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ORDER

PURSUANT TO STIPULATION, THE FOLLOWING SCHEDULE IS ENTERED:

Activity	Date
Non-Expert Discovery Cut Off (including hearing of discovery motions)	April 22, 2025
Deadline for motion for Class Certification, and for disclosures and reports of any experts Plaintiff intends to rely on at class certification	May 8, 2025
Deadline for any opposition to a motion for class certification; for Defendant's disclosures and reports of any experts Defendant intends to rely on at class certification; and for any motion by AHM to limit or exclude Plaintiff's class certification expert testimony based on <i>Daubert</i> or any other basis	August 15, 2025
Deadline for Plaintiff's reply in support of a motion for class certification; deadline for Plaintiff to challenge AHM's class certification expert testimony based on <i>Daubert</i> or any other basis	November 25, 2025
Hearing on motion for class certification	December 18, 2025 at 2 p.m.

Dated: 1/14/2025


HON. HAYWOOD S. GILLIAM, JR.