

1 PILLSBURY WINTHROP SHAW PITTMAN LLP  
 VERNON H. GRANNEMAN (SBN 083532)  
 2 vernon.granneman@pillsburylaw.com  
 DIANNE L. SWEENEY (SBN 187198)  
 3 dianne.sweeney@pillsburylaw.com  
 2475 Hanover Street  
 4 Palo Alto, CA 94304-1114  
 Telephone: (650) 233-4500  
 5 Facsimile: (650) 233-4545

\*\*E-Filed 11/14/08\*\*

6 OPPENHEIMER WOLFF & DONNELLY LLP  
 ANDREW S. HANSEN (admitted *Pro Hac Vice*)  
 7 ahansen@oppenheimer.com  
 HEIDI A. O. FISHER (admitted *Pro Hac Vice*)  
 8 hfisher@oppenheimer.com  
 MEGHAN M. ANZELC (admitted *Pro Hac Vice*)  
 9 manzelc@oppenheimer.com  
 Plaza VII, Suite 3300  
 10 45 South Seventh Street  
 Minneapolis, MN 55402  
 11 Telephone: (612) 607-7000  
 Facsimile: (612) 607-7100

12 Attorneys for Defendants  
 13 SELECT COMFORT RETAIL CORPORATION  
 and BED BATH & BEYOND, INC.

14 UNITED STATES DISTRICT COURT  
 15 NORTHERN DISTRICT OF CALIFORNIA  
 16 SAN JOSE DIVISION

17 \_\_\_\_\_ )  
 18 MOLLY STEARNS, individually and on )  
 behalf of all those similarly situated, )  
 19 )  
 Plaintiffs, )  
 20 )  
 vs. )  
 21 )  
 SELECT COMFORT RETAIL )  
 22 CORPORATION, a Minnesota Corporation; )  
 BED BATH & BEYOND INC., a New York )  
 23 Corporation; THE SLEEP TRAIN, INC., a )  
 California Corporation, and DOES 1 through )  
 24 50,000, inclusive, )  
 )  
 25 Defendants. )  
 \_\_\_\_\_ )

Case No. C 08 02746 JF PVT  
**STIPULATION AND [PROPOSED]  
 ORDER TO CONTINUE TIME FOR  
 RESPONDING TO AMENDED  
 COMPLAINT, TO SET HEARING  
 ON RULE 12 MOTION FOR  
 FEBRUARY 13, 2009, AND TO  
 CONTINUE CASE MANAGEMENT  
 CONFERENCE**

**Local Rule 6-1**

26  
 27  
 28

1           WHEREAS, Plaintiffs Molly Stearns, Ruth Rose, Dennis Fuller, Bonnie Fuller, Dan  
2 Schlesinger, Karen Williams, and Brian Williams filed and served an amended complaint  
3 on October 30, 2008. Defendants Select Comfort Retail Corporation and Bed Bath &  
4 Beyond, Inc. currently must respond to the amended complaint, whether by answer or  
5 motion, on November 13, 2008.

6           WHEREAS, Defendants intend to file a motion under Rule 12 of the Federal Rules  
7 of Civil Procedure in response to Plaintiffs' amended complaint.

8           WHEREAS, the parties agree to extend Defendants' time to respond to the amended  
9 complaint. The parties further agree to continue all other deadlines, including the pretrial  
10 conference set for December 12, 2008, until after the Court has decided Defendants'  
11 motion.

12           WHEREAS, the parties have secured a hearing date on the motion and have agreed  
13 to a briefing schedule.

14           NOW THEREFORE, the parties hereby agree and stipulate that Defendants' time to  
15 respond to the amended complaint is continued until January 6, 2009.

16           The parties agree that Defendants' Rule 12 motion will be heard on February 13,  
17 2009 at 9:00 a.m. Said date was reserved with the Clerk prior to the filing of this  
18 stipulation.

19           The parties further agree to the following briefing schedule: Defendants' motion,  
20 including points and authorities, shall be served and filed on or before January 6, 2009.  
21 Plaintiffs' opposition shall be served and filed on or before January 15, 2009. Defendants'  
22 reply shall be served and filed on or before January 23, 2009. The briefing schedule is in  
23 accordance with Local Rule 7.

24           The parties further agree that all other deadlines, including the pretrial conference  
25 set for December 12, 2008, shall be continued until after the Court decides Defendants'  
26 motion.

27  
28

1 Dated: November 13, 2008

PILLSBURY WINTHROP SHAW PITTMAN LLP

2

3

By  /s/ Dianne L. Sweeney

4

Dianne L. Sweeney

5

Attorneys for Defendants

6

SELECT COMFORT RETAIL CORPORATION  
AND BED BATH & BEYOND INC.

7 Dated: November 13, 2008

OPPENHEIMER WOLFF & DONNELLY LLP

8

9

By  /s/ Andrew S. Hansen

10

Andrew S. Hansen

11

Attorneys for Defendants

12

SELECT COMFORT RETAIL CORPORATION  
AND BED BATH & BEYOND INC.

13 Dated: November 13, 2008

BUSTAMANTE, O'HARA & GALIASSO

14

By  /s/ Andrew V. Stearns

15

Andrew V. Stearns

16

Attorneys for Plaintiffs

17

MOLLY STEARNS, RUTH ROSE, DENNIS  
FULLER, BONNIE FULLER, DAN  
SCHLESINGER, KAREN WILLIAMS, AND  
BRIAN WILLIAMS

18

19

**GENERAL ORDER 45(X)(B) STATEMENT**

20

Pursuant to General Order No. 45(X)(b), I hereby attest that concurrence in the

21

filing of this document has been obtained from counsel for Plaintiffs MOLLY STEARNS,

22

RUTH ROSE, DENNIS FULLER, BONNIE FULLER, DAN SCHLESINGER, KAREN

23

WILLIAMS, and BRIAN WILLIAMS and co-counsel for Defendants SELECT

24

COMFORT RETAIL CORPORATION and BED BATH & BEYOND INC.

25

26

By  /s/ Dianne L. Sweeney

27

Dianne L. Sweeney

28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**[PROPOSED] ORDER**

The Court, having considered the parties' Stipulation and finding good cause therefore, hereby orders:

- 1. That Defendants' time to respond to the amended complaint is continued until January 6, 2009;
- 2. That Defendants' Rule 12 motion will be heard on February 13, 2009 at 9:00 a.m. Said date was reserved with the Clerk prior to the filing of this stipulation;
- 3. That the parties shall comply with the following schedule relating to Defendants' Rule 12 motion:
  - a. Defendants' motion, including points and authorities, shall be served and filed on or before January 6, 2009;
  - b. Plaintiffs' opposition shall be served and filed on or before January 15, 2009;
  - c. Defendants' reply shall be served and filed on or before January 23, 2009.
- 4. That all other deadlines, including the pretrial conference set for December 12, 2008, shall be continued until a date to be ordered by the Court after the Court decides Defendants' Rule 12 motion.

IT IS SO ORDERED.

Dated: 11/14/08

By:   
 United States District Court Judge