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Attorneys for Defendant S.C. Johnson & Son, Inc.

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

WAYNE KOH, on behalf of himself and all
others similarly situated

Plaintiff,

vs.

S.C. JOHNSON & SON, INC.,

Defendant.

Case No.: 09-cv-00927 RMW

**STIPULATION AND ORDER
ESTABLISHING DISCOVERY AND
BRIEFING SCHEDULE**

STIPULATION AND ORDER

ESTABLISHING DISCOVERY AND BRIEFING SCHEDULE

Pursuant to Local Rule 6-1(b), Plaintiff Wayne Koh and Defendant S.C. Johnson & Son, Inc. (“SC Johnson”) (collectively, the “Parties”), by their attorneys, hereby stipulate to the following schedule and respectfully request that the Court order the stipulated schedule:

Stipulation and Order Establishing
Discovery and Briefing Schedule

Case No. 09-cv-00927 RMW

1 **STIPULATION**

2 WHEREAS, on June 23, 2010, the Court entered the following schedule (Dkt. 50);

3 **Class Certification Briefing:**

4 Plaintiff's motion for class certification: August 2, 2010
5 Defendant's response to motion for class certification: September 16, 2010
6 Plaintiff's reply in support of motion for class certification: October 14, 2010

7 **Discovery:**

8 Fact discovery cut-off: October 12, 2010
9 Plaintiff's expert reports due: October 19, 2010
10 Depositions of plaintiff's experts: November 2, 2010
11 Defendant's expert reports due: November 16, 2010
12 Depositions of defendant's experts: December 3, 2010

13 **Summary Judgment Briefing:**

14 Motions for summary judgment: November 19, 2010
15 Responses to motions for summary judgment: December 20, 2010
16 Replies in support of motions for summary judgment: January 19, 2011
17 Last Day to Hear Dispositive Motions: February 4, 2011, at 9:00 a.m.

18 **Trial:**

19 Pretrial Conference: March 10, 2011 at 2:00 p.m.
20 Jury Trial: April 4, 2011 at 1:30 p.m.

21 WHEREAS, though the Parties have been working diligently to complete discovery, they
22 realize that they need additional time to complete class and full merits discovery. The Parties are in
23 the process of completing document discovery, but deposition discovery has not yet commenced.
24 The Parties agree that an extension is appropriate to allow the deposition of Plaintiff and the Rule
25 30(b)(6) deposition of Defendant to occur prior to the filing dates of their respective class
26 certification briefs;

27 WHEREAS, the Parties have been negotiating in good faith to enter a stipulation for
28 coordinated discovery in a related putative nationwide class action, *Petlack v. S.C. Johnson & Son, Inc.*, Case No. 08-cv-00820 (E.D. Wisc.) and believe that an extension is necessary to achieve the necessary coordination between the two cases. The allegations in *Petlack* are substantially similar to those in this case, and lead counsel for both parties are the same. Proceedings have advanced

1 much more rapidly in the above-captioned action than in *Petlack*. The Parties recognize that it will
2 be mutually beneficial to coordinate discovery in the two cases in order to conserve judicial
3 resources and avoid duplication, delay, waste, and unnecessary litigation expense. The anticipated
4 stipulation for coordinated discovery in *Petlack* will import all discovery taken in this case to
5 *Petlack*, and therefore, provides that no additional discovery will be taken other than on class issues,
6 discovery of plaintiff Petlack, and/or any other issues unique to that case. The Parties agree that a
7 90-day extension of all dates will allow the Parties sufficient time to complete discovery. Thus, this
8 extension will enable the Parties to enter into the stipulation for coordinated discovery in *Petlack*,
9 which, as stated above, will create substantial efficiencies for the Parties and the Courts;

10 WHEREAS the parties have already worked together and agreed to a specific sequencing of
11 events for the schedule in this case, including the appropriate length and sequence of time periods
12 for class certification briefing, expert discovery, summary judgment briefing, and trial, and do not
13 wish to alter the durations or sequence of those deadlines;

14 WHEREAS, the Parties have, to date, requested a sixty (60) day extension of the discovery
15 deadline and trial date, which was granted by the Court on February 2, 2010, and a one hundred and
16 twenty (120) day extension of the discovery deadline and trial date, which was granted by the Court
17 on June 23, 2010;

18 WHEREAS, the Parties estimate that they need an additional ninety (90) days to complete
19 discovery and conduct briefing on class certification and summary judgment;

20 THE FOLLOWING SCHEDULE, UPON PERMISSION OF THE COURT, IS AGREED
21 TO BY THE PARTIES:

22 **Class Certification Briefing:**

23 Plaintiff's motion for class certification:	November 1, 2010
24 Defendant's response to motion for class certification:	December 15, 2010
25 Plaintiff's reply in support of motion for class 26 certification:	January 13, 2011

1 **Discovery:**

2 Fact discovery cut-off: January 13, 2011
3 Plaintiff's expert reports due: January 20, 2011
4 Depositions of plaintiff's experts: February 3, 2011
5 Defendant's expert reports due: February 17, 2011
6 Depositions of defendant's experts: March 3, 2011

7 **Summary Judgment Briefing:**

8 Motions for summary judgment: February 21, 2011
9 Responses to motions for summary judgment: March 23, 2011
10 Replies in support of motions for summary judgment: April 20, 2011
11 Last Day to Hear Dispositive Motions: May 6, 2011, at 9:00 a.m.

12 **Trial:**

13 Pretrial Conference: June 9, 2011 at 2:00 p.m.
14 Jury Trial: July 11, 2011 at 1:30 p.m.

15 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

16
17 Dated: July 28, 2010

REESE RICHMAN LLP

/s/ Michael R. Reese

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22 Dated: July 28, 2010

KIRKLAND & ELLIS LLP

/s/ Bradley H. Weidenhammer (with permission)

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[] ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: 8/16/10


Ronald M. Whyte
Ronald M. Whyte
United States District Judge