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28United States District Court
For the Northern District of California

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

Thomas Spilsbury, Jr.,

NO. C 09-05955 JW

Plaintiff,

**ORDER GRANTING PLAINTIFF'S
MOTION TO EXTEND TIME
REGARDING DEFENDANT'S MOTION
FOR SUMMARY JUDGMENT**

v.

Target Corp., et al.,

Defendants.

Presently before the Court is Thomas Spilsbury, Jr.'s ("Plaintiff") Objection to Defendants' Improper Unilateral Setting of Premature Hearing Date for Motion for Summary Judgment, or, in the Alternative, Request for Enlargement of Time for Hearing of Motion for Summary Judgment. (hereafter, "Motion to Extend," Docket Item No. 49.) Plaintiff moves to modify the current schedule for Defendants' Motion for Summary Judgment on the ground that additional time is necessary for Plaintiff to obtain discovery regarding the blender that Plaintiff was allegedly harmed by. (Id. at 4.) Defendants oppose Plaintiff's Motion, contending that an extension would prejudice them. (See Docket Item No. 50.)

Although the Court finds that Plaintiff's ground for a continuance is insufficient, the Court also finds that Defendants will not be prejudiced since the May 12, 2010 Scheduling Order sets March 21, 2011 as the last date for hearing dispositive motion. (See Docket Item No. 36.) In

1 addition, the Court finds that Defendants have improperly noticed their Motion for the December 20,
2 2010 hearing as that date had been closed out by the Court as of September 2, 2010.¹

3 Accordingly, the Court GRANTS Plaintiff's Motion and continues the hearing on
4 Defendants' Motion from December 20, 2010 to **February 28, 2011 at 9 a.m.** The parties shall
5 comply with the following briefing schedule:

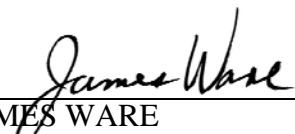
6 (1) On or before **January 21, 2011**, Plaintiff shall file its Opposition to Defendants'
7 Motion for Summary Judgment;

8 (2) On or before **February 4, 2011**, Defendants shall file their Reply.

9 In light of this Order, the Court continues the Preliminary Pretrial Conference currently set
10 for December 13, 2010 to **March 21, 2011 at 11 a.m.**

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Dated: November 19, 2010



JAMES WARE
United States District Judge

26 ¹ Defendants filed their Motion on November 10, 2010. (Docket Item No. 39.) An
27 evaluation of the Court's on-line calendar would have revealed that the Court's December 20, 2010
28 calendar is no longer available for noticed motions due its volume.

1 **THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:**

2 Juliet MacMillin Lompa jmlompa@stonelawoffice.com
3 Timothy Dennis McMahon tmcmahon@cmalaw.net

4

5 **Dated: November 19, 2010**

Richard W. Wieking, Clerk

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By: /s/ JW Chambers
Elizabeth Garcia
Courtroom Deputy

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