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11 Attorneys for Defendant
 SEARS, ROEBUCK AND CO.

12 OTHER PARTIES' COUNSEL
 13 SHOWN ON SIGNATURE PAGE

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

18 KEVIN FAULK, on behalf of himself and
 all others similarly situated,
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 Plaintiff,
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 vs.
 21 SEARS, ROEBUCK AND CO.,
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 Defendant.
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Case No. CV 11-02159 JF

CLASS ACTION

**STIPULATED REQUEST FOR ORDER
SETTING HEARING ON MOTION TO
DISMISS AND [PROPOSED] ORDER**

1 Plaintiff Kevin Faulk (“Plaintiff”) and Defendant Sears, Roebuck and Co. (“Sears”), by
2 and through their respective counsel, enter into the following Stipulation:

3 WHEREAS, on July 11, 2011, Defendant Sears Roebuck and Co. (“Sears”) filed a motion
4 to dismiss the claims in the Class Action Complaint filed by Plaintiff Kevin Faulk (“Plaintiff”)
5 and set that motion for hearing on Friday, August 26, 2011 at 9:00 a.m. (Dkt. 20);

6 WHEREAS, on July 17, 2011, Plaintiff filed his First Amended Class Action Complaint
7 (Dkt. 21);

8 WHEREAS, on July 29, 2011, one of Sears’ counsel (Julie Schwartz) contacted Christian
9 Delaney, Calendar Clerk for Judge Fogel, to determine available hearing dates for its Motion to
10 Dismiss Plaintiff’s Amended Class Action Complaint (“Motion to Dismiss”), filed concurrently
11 herewith;

12 WHEREAS, Ms. Delaney informed Sears’ counsel that Judge Fogel is not setting new
13 hearing dates but will consider hearing additional matters on dates previously reserved if the
14 parties so stipulate;

15 WHEREAS, the hearing on Sears’ original motion to dismiss remains on calendar; and

16 WHEREAS, the parties have agreed to waive the 35-day notice requirement of Civil Local
17 Rule 7-2(a) and to have Sears’ Motion to Dismiss heard on Friday, August 26, 2011, the date set
18 for hearing on Sears’ original motion to dismiss.

19 NOW, THEREFORE, the parties hereby stipulate, by and through their undersigned
20 attorneys of record, to an Order of the Court that:

- 21 1. The hearing on Sears’ Motion to Dismiss shall be set for Friday, August 26,
22 2011 at 9:00 a.m. in Courtroom 3 of the San Jose Courthouse of the above-entitled Court;
 - 23 2. Plaintiff shall file his response to the Motion to Dismiss on or before August 15,
24 2011; and
 - 25 3. Sears shall file its reply on or before August 22, 2011.
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IT IS SO ORDERED.

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Dated: August 11 2011


United States District Judge