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19 Attorneys for Plaintiff  
20 NICHOLAS DERBY

21 **UNITED STATES DISTRICT COURT**  
22 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**  
23 **SAN JOSE DIVISION**

24 NICHOLAS DERBY, individually and on  
25 behalf of a class of similarly situated individuals,

26 Plaintiff,

27 v.

28 AOL, INC., a Delaware corporation,

Defendant.

Civil Case No.: 5:15-cv-00452-RMW

**STIPULATION AND []  
ORDER TO EXTEND BRIEFING  
SCHEDULE ON DEFENDANT'S MOTION  
TO DISMISS, TO RESCHEDULE  
MOTION HEARING, AND TO  
RESCHEDULE CASE MANAGEMENT  
CONFERENCE**

CMC Date: July 31, 2015  
CMC Time: 10:30 a.m.  
Dept: Courtroom 6, 4th Floor  
Judge: Hon. Ronald M. Whyte

1 Plaintiff Nicholas Derby (“Plaintiff”), by and through his attorneys Parisi & Havens LLP and  
2 McGuire Law, P.C., and Defendant AOL, Inc. (“Defendant”), by and through its attorneys Covington &  
3 Burling LLP, pursuant to Local Rules 6-1, 6-2 and 7-12 hereby stipulate as follows:

4 1. On June 25, 2015, Plaintiff filed his First Amended Class Action Complaint. (Dkt. 31.)

5 2. On July 16, 2015, Defendant filed its Motion to Dismiss the First Amended Class Action  
6 Complaint (“Motion to Dismiss”). (Dkt 35.)

7 3. The hearing on Defendant’s Motion to Dismiss is currently set for August 21, 2015 at  
8 9:00 a.m. Plaintiff’s opposition to the Motion to Dismiss is currently due on July 30, 2015, and  
9 Defendant’s reply brief is currently due on August 6, 2015.

10 4. The Parties have met and conferred and believe that, in light of the amount of time  
11 necessary to thoroughly address the issues presented in Defendant’s Motion to Dismiss, and in light of  
12 the work and travel schedules of counsel, good cause exists to continue the hearing on Defendant’s  
13 Motion to Dismiss until September 11, 2015, and good cause exists for an extension of time for Plaintiff  
14 to properly respond to Defendant’s Motion to Dismiss and for Defendant to properly reply in support  
15 thereof.

16 5. Additionally, on July 1, 2015, the Court set a Case Management Conference for July 31,  
17 2015, with a Case Management Statement due on July 24, 2015. (Dkt. 32.) The Parties have met and  
18 conferred and believe that, in light of Defendant’s pending Motion to Dismiss, and in light of the Motion  
19 to Dismiss being set for hearing, in the interests of efficiency and judicial economy, the Case  
20 Management Conference should be rescheduled to September 11, 2015—the same date as the hearing  
21 on the Motion to Dismiss.

22 6. This Stipulation is made in good faith and not for the purpose of delay or for any other  
23 improper purpose. No other date or deadline would be impacted by the extensions requested in this  
24 Stipulation.

25 7. Consequently, Plaintiff Nicholas Derby and Defendant AOL, Inc. hereby stipulate to, and  
26 request that this Honorable Court enter an Order: (i) extending the deadline for Plaintiff to file his  
27 response to Defendant’s Motion to Dismiss by seven (7) days to August 6, 2015; (ii) extending the  
28

1 deadline for Defendant to file its reply in support of the Motion to Dismiss by fourteen (14) days to  
2 August 27, 2015; (iii) subject to the Court's availability, rescheduling the hearing on Defendant's  
3 Motion to Dismiss to September 11, 2015; and (iv) subject to the Court's availability, rescheduling the  
4 Case Management Conference to September 11, 2015, or the same date as the hearing on Defendant's  
5 Motion to Dismiss, with a Case Management Statement due September 4, 2015, or seven days prior to  
6 the rescheduled Case Management Conference.

7 Dated: July 23, 2015

NICHOLAS DERBY

8 By: /s/ Evan M. Meyers  
9 Evan M. Meyers  
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11 NICHOLAS DERBY

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27 Attorneys for Plaintiff  
28 NICHOLAS DERBY

29 Dated: July 23, 2015

AOL, INC.

30 By: /s/ Simon J. Frankel  
31 Simon J. Frankel  
32 Attorneys for Defendant  
33 AOL, INC.

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Pursuant to Stipulation, **IT IS SO ORDERED.**

Dated: \_\_\_\_\_

By:   
Hon. Ronald M. Whyte  
U.S. District Court Judge