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 15 The Clorox Company

16 **UNITED STATES DISTRICT COURT**  
 17 **NORTHERN DISTRICT OF CALIFORNIA**

18 PETER C. WACHOWSKI, on Behalf of  
 19 Himself and All Others Similarly  
 20 Situated and the General Public,

21 Plaintiff,

22 v.

23 CLOROX COMPANY ,

24 Defendant.

Case No. CV-08-05269 WHA

Honorable William Alsup

**STIPULATION AND ~~PROPOSED~~  
 ORDER TRANSFERRING ACTION  
 TO SOUTHERN DISTRICT OF  
 CALIFORNIA**

Action Filed: November 20, 2008

1 Pursuant to 28 U.S.C. §§ 1404(a), Defendant The Clorox Company  
2 (“Clorox”), Plaintiff Peter Wachowski and plaintiff Shawndee Hartless (who is plaintiff in  
3 the related action *Hartless v. Clorox Company*, Case No. 06-CV-2705 JAH (CAB)  
4 (“*Hartless*”)<sup>1</sup>) respectfully request for the reasons stated herein that this Court approve  
5 this Stipulation and Proposed Order (“Stipulation”) to:

6 (1) transfer the above-captioned action (“*Wachowski*”) to the United States  
7 District Court for the Southern District of California, and

8 (2) extend the deadline for Clorox to file a response to the complaint in  
9 *Wachowski* (the “Complaint”) until 30 days after this Court enters this Stipulation and  
10 Order.

11 WHEREAS, the *Hartless* action was filed on December 13, 2006 in the  
12 Southern District of California and has been proceeding before the Honorable John A.  
13 Houston for approximately two years;

14 WHEREAS, the *Wachowski* action was filed on November 20, 2008 in this  
15 Court;

16 WHEREAS, *Hartless* and *Wachowski* involve the same defendant, are based  
17 on substantially similar allegations, and the plaintiff in each seeks to represent the same  
18 nationwide class of consumers of Clorox’s Automatic Toilet Bowl Cleaner With Bleach  
19 (the “Product”);

20 WHEREAS, in *Hartless*, Judge Houston has already considered allegations  
21 identical to those asserted in *Wachowski* and issued substantive rulings, discovery has  
22 commenced, and a deadline for plaintiff Hartless to file her motion for class certification  
23 has been set;

24 WHEREAS, the parties to both *Hartless* and *Wachowski* agree that *Hartless*  
25 and *Wachowski* are related actions pursuant to Civil Local Rule 3-13 of this Court, and

26 <sup>1</sup> *Hartless* is a consumer class action filed on December 13, 2006 and currently  
27 proceeding in the United States District Court for Southern District of California. Clorox  
28 and Plaintiff Wachowski have concurrently filed a Joint Notice of Pendency of Other  
Action pursuant to Local Rule 3-13 detailing the similarities between the allegations in the  
*Wachowski* and *Hartless* actions.

1 that *Wachowski* should be transferred to the United States District Court for the Southern  
2 District of California to conserve judicial resources and prevent duplicative litigation;

3 WHEREAS, the parties to both *Hartless* and *Wachowski* agree that transfer  
4 of *Wachowski* to the Southern District of California is proper under 28 U.S.C. §§ 1404(a)  
5 because: (1) while venue exists in the Northern District of California, this action could  
6 have been properly brought in the Southern District of California; (2) the Southern  
7 District of California is the preferred forum over the Northern District of California  
8 because the first-filed *Hartless* action has been proceeding in the Southern District for  
9 approximately two years; and (3) principles of judicial economy militate in favor of  
10 transfer of *Wachowski* to the Southern District of California to promote the interests of  
11 justice and minimize the risk of inconsistent rulings and judgments;

12 WHEREAS, the parties to both *Hartless* and *Wachowski* agree to work  
13 together to avoid duplication of discovery and further agree that discovery obtained in one  
14 action can be used in either action to the extent it is otherwise relevant and admissible;

15 WHEREAS, the parties to both *Hartless* and *Wachowski* agree that  
16 subsequent to a transfer of this case to the Southern District of California, the Protective  
17 Order previously entered in *Hartless* will apply to *Wachowski*, and Plaintiff *Wachowski*  
18 will be bound by the terms of that Protective Order;

19 WHEREAS, the parties to both *Hartless* and *Wachowski* agree that  
20 subsequent to a transfer of this case to the Southern District of California, the Stipulation  
21 Regarding the Production of Electronically Stored Information previously entered in  
22 *Hartless* will apply to *Wachowski*, and Plaintiff *Wachowski* will be bound by the terms of  
23 that Stipulation;

24 WHEREAS, Plaintiff *Wachowski* agrees that, within 21 days after entry of  
25 this Court's ruling on this Stipulation, he will file an amended complaint dropping his  
26 claim for breach of implied warranty and his California UCL and CLRA claims and  
27 allege, on behalf of a purported class of Illinois consumers of Clorox's Product, claims  
28 under Illinois' consumer protection law;

1                   WHEREAS, plaintiffs' counsel in *Hartless* and *Wachowski* agree that  
2 counsel of record in *Hartless* will serve as interim lead plaintiffs' counsel for the related  
3 *Hartless* and *Wachowski* actions pursuant to Federal Rule of Civil Procedure 23(g)(2).

4                   IT IS HEREBY STIPULATED AND AGREED among the undersigned  
5 parties to both *Hartless* and *Wachowski*, through their respective attorneys of record and  
6 subject to approval by this Court, as follows:

7                   1.     This action shall be transferred to the United States District Court for  
8 the Southern District of California.

9                   2.     The time for Clorox to respond to the Complaint in this action is  
10 hereby extended to 30 days after entry of this Court's ruling on this Stipulation.

11                   Dated: January 6, 2009

ALEJANDRO N. MAYORKAS  
SABRINA H. STRONG  
ADAM G. LEVINE  
CHRISTA M. DEMEKE  
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16                   By: /s/ Adam G. Levine  
                                  Adam G. Levine

17                   Attorneys for Defendant The Clorox  
18                   Company

19                   Dated: January 6, 2009

RICHARD J. DOHERTY  
BOCK HATCH, LLC

20  
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25                   By: /s/ Richard J. Doherty  
                                  Richard J. Doherty

26                   Attorneys for Plaintiff Peter Wachowski  
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Dated: January 6, 2009

TIMOTHY G. BLOOD  
LESLIE E. HURST  
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By: /s/ Timothy G. Blood  
Timothy G. Blood

Attorneys for Plaintiff Shawndee Hartless

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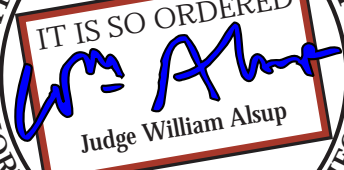
~~[PROPOSED]~~ ORDER

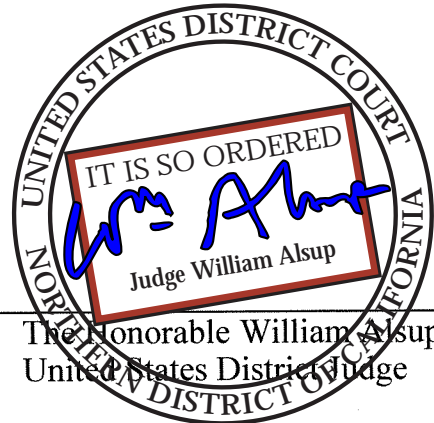
IT IS ORDERED that:

1. This action shall be transferred to the United States District Court for the Southern District of California.

2. The time for Clorox to respond to the Complaint in this action is hereby extended to 30 days after entry of this Court's ruling on this Stipulation.

DATED: January 22, 2009

By   
The Honorable William Alsup  
United States District Judge



The seal is circular with the text "UNITED STATES DISTRICT COURT" at the top and "SOUTHERN DISTRICT OF CALIFORNIA" at the bottom. In the center, there is a rectangular stamp that reads "IT IS SO ORDERED" and contains the signature of Judge William Alsup.