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13 Attorneys for Defendant

14 Whirlpool Corporation

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

17 JULIE CORZINE, individually and on
behalf of all others similarly situated,

18 Plaintiff,

19 vs.

20 WHIRLPOOL CORPORATION, a
Delaware corporation; and DOES 1 through
21 50, inclusive,

22 Defendants.

Case No.: 5:15-cv-05764-BLF

**JOINT STIPULATION AND
[PROPOSED] ORDER TO SHORTEN
TIME TO HEAR MOTION FOR
ORDER GRANTING PRELIMINARY
APPROVAL OF SETTLEMENT,
CERTIFYING PROVISIONAL
SETTLEMENT CLASS, APPOINTING
SETTLEMENT CLASS COUNSEL,
SETTING HEARING ON FINAL
APPROVAL OF SETTLEMENT, AND
DIRECTING NOTICE TO THE CLASS
AND MOTION FOR LEAVE TO FILE
THIRD AMENDED COMPLAINT**

1 **JOINT STIPULATION AND [PROPOSED] ORDER TO SHORTEN TIME TO HEAR**
2 **MOTION FOR PRELIMINARY APPROVAL AND**
3 **MOTION FOR LEAVE TO FILE THIRD AMENDED COMPLAINT**
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5 Pursuant to Civil L.R. 6-1(b) and 6-2, this joint stipulation to shorten time for hearing:

6 (1) Plaintiff’s unopposed Motion for Order Granting Preliminary Approval of Settlement,
7 Certifying Provisional Settlement Class, Appointing Settlement Class Counsel, Setting Hearing
8 on Final Approval of Settlement, and Directing Notice to the Class (“Motion for Preliminary
9 Approval”) and (2) Plaintiff’s unopposed Motion for Leave to File Third Amended Complaint
10 is made and entered into between Plaintiff Julie Corzine (“Plaintiff”), individually and on behalf
11 of a nationwide Class, and Defendant Whirlpool Corporation (“Defendant”) (collectively
12 “Settling Parties”) as follows:

13 **WHEREAS** in May 2018, the Settling Parties negotiated and agreed to a settlement
14 that, if approved by the Court, will provide the proposed Class with non-defective replacement
15 parts and reimbursement for costs of repair for past and future leaks as more fully set forth in
16 the unopposed Motion for Preliminary Approval;

17 **WHEREAS** the Court stayed this action pending the Ninth Circuit’s *en banc* review of
18 its decision in *In re Hyundai and Kia Fuel Economy Litigation*, 881 F.3d 679 (9th Cir. Jan. 23,
19 2018), which concerned the appropriate choice-of-law analysis a district court must conduct as
20 part of the preliminary approval of nationwide class settlement of consumer protection claims
21 (see ECF No. 100);

22 **WHEREAS** on June 6, 2019, the Ninth Circuit decided and published its *en banc*
23 opinion, *Espinosa v. Ahearn (In re Hyundai & Kia Fuel Econ. Litig.)*, Nos. 15-65014, 15-
24 56025, 15-56059, 15-56061, 15-56067, 2019 U.S. App. LEXIS 17047 (9th Cir. June 6, 2019);

1 **WHEREAS** on or about July 8, 2019, concurrent with the filing of this Stipulation and
2 Proposed Order, Plaintiff filed its Motion for Preliminary Approval and Motion for Leave to
3 File Third Amended Complaint;

4 **WHEREAS** no later than July 15, 2019, Whirlpool will file its memorandum in support
5 of the Motion for Preliminary Approval;

6 **WHEREAS** the allegations against Whirlpool in the operative Second Amended
7 Complaint pertain only to a California class of individuals, whereas the Settlement Agreement
8 anticipates releasing claims made on behalf of a nationwide class;

9 **WHEREAS** the proposed Third Amended Complaint amends the class definition in
10 order to mirror the nationwide class definition in the Settlement Agreement and adds a cause of
11 action for violation of the Magnuson-Moss Warranty Act to cover non-California implied
12 warranty of merchantability claims released in the Settlement Agreement;

13 **WHEREAS** Defendant indicated it does not oppose the Motion for Leave to File Third
14 Amended Complaint and further that it will file its own memorandum in support of the Motion
15 for Preliminary Approval;

16 **WHEREAS** this case has been settled and stayed for over one year during the Ninth
17 Circuit's *en banc* review of its decision in *In re Hyundai and Kia Fuel Economy Litigation*; and

18 **WHEREAS** the Settling Parties now seek to resolve the lawsuit in an expeditious and
19 mutually beneficial manner.

20
21 **NOW THEREFORE, IT IS HEREBY STIPULATED AND AGREED TO** by and
22 between the Settling Parties that the Court advance the date of the hearings on Plaintiff's
23 unopposed Motion for Preliminary Approval and unopposed Motion for Leave to File Third
24

1 Amended Complaint to **Thursday, July 18, 2019** at 9:00 a.m., or as soon as practicable for the
2 Court.

3 **SO STIPULATED.**

4
5 Dated: July 8, 2019

KASDAN LIPPSMITH WEBER TURNER LLP

6 By: /s/ Graham B. LippSmith

7 KENNETH S. KASDAN
8 GRAHAM B. LIPPSMITH
9 CELENE CHAN ANDREWS
10 JACLYN L. ANDERSON
11 FRANK A. PEREZ

Attorneys for Plaintiff and the Proposed Class

12 Dated: July 8, 2019

WHEELER TRIGG O'DONNELL LLP

13 By: /s/ Andrew M. Unthank

14 ANDREW M. UNTHANK
15 *Attorneys for Defendant*

16 **APPROVED AND SO ORDERED:**

17 DATED: _____.

18 _____
19 HON. BETH LABSON FREEMAN
20 UNITED STATES DISTRICT JUDGE

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CERTIFICATION

Pursuant to Local Rule 5-1(i)(3), I hereby attest that concurrence in the filing of the accompanying **JOINT STIPULATION AND [PROPOSED] ORDER TO SHORTEN TIME TO HEAR MOTION FOR ORDER GRANTING PRELIMINARY APPROVAL OF SETTLEMENT, CERTIFYING PROVISIONAL SETTLEMENT CLASS, APPOINTING SETTLEMENT CLASS COUNSEL, SETTING HEARING ON FINAL APPROVAL OF SETTLEMENT, AND DIRECTING NOTICE TO THE CLASS AND MOTION FOR LEAVE TO FILE THIRD AMENDED COMPLAINT** has been obtained.

/s/ Graham B. LippSmith
GRAHAM B. LIPPSMITH

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CERTIFICATE OF SERVICE

I hereby certify that on July 8, 2019, I electronically filed the **JOINT STIPULATION AND [PROPOSED] ORDER TO SHORTEN TIME TO HEAR MOTION FOR ORDER GRANTING PRELIMINARY APPROVAL OF SETTLEMENT, CERTIFYING PROVISIONAL SETTLEMENT CLASS, APPOINTING SETTLEMENT CLASS COUNSEL, SETTING HEARING ON FINAL APPROVAL OF SETTLEMENT, AND DIRECTING NOTICE TO THE CLASS AND MOTION FOR LEAVE TO FILE THIRD AMENDED COMPLAINT** with the Clerk of the Court, using the CM/ECF system, which will send notification of such filing to the counsel of record in this matter who are registered on the CM/ECF system to receive service.

/s/ Graham B. LippSmith
GRAHAM B. LIPPSMITH

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8 Attorneys for Plaintiff

9
10 **UNITED STATES DISTRICT COURT**
NORTHERN DISTRICT OF CALIFORNIA

11 JULIE CORZINE, individually and on behalf
12 of all others similarly situated,

13 Plaintiff,

14 vs.

15 WHIRLPOOL CORPORATION, a Delaware
16 corporation; and DOES 1 through 50,
inclusive,

17 Defendants.

Case No.: 5:15-cv-05764-BLF

**DECLARATION OF GRAHAM B.
LIPPSMITH IN SUPPORT OF JOINT
STIPULATION AND [PROPOSED]
ORDER TO SHORTEN TIME TO HEAR
MOTION FOR ORDER GRANTING
PRELIMINARY APPROVAL OF
SETTLEMENT, CERTIFYING
PROVISIONAL SETTLEMENT CLASS,
APPOINTING SETTLEMENT CLASS
COUNSEL, SETTING HEARING ON
FINAL APPROVAL OF SETTLEMENT,
AND DIRECTING NOTICE TO THE
CLASS AND MOTION FOR LEAVE TO
FILE THIRD AMENDED COMPLAINT**

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DECLARATION OF GRAHAM B. LIPPSMITH

I, Graham B. LippSmith, hereby declare:

1. I am a partner in the law firm of Kasdan LippSmith Weber Turner (“KLWT”). I am an attorney licensed to practice in the State of California and the State of Hawai‘i. I am admitted to practice before this Court. I am Proposed Class Counsel and counsel of record for Plaintiff and I make this declaration pursuant to L.R. 6-2(a) respectfully requesting that the Court shorten time for hearing: (1) Plaintiff’s unopposed Motion for Order Granting Preliminary Approval of Settlement, Certifying Provisional Settlement Class, Appointing Settlement Class Counsel, Setting Hearing on Final Approval of Settlement, and Directing Notice to the Class (“Motion for Preliminary Approval”) and (2) Plaintiff’s unopposed Motion for Leave to File Third Amended Complaint. Except as expressly stated, I have personal knowledge of the facts set forth below and, if called as a witness, could and would testify accurately to their veracity.

2. In May 2018, the Settling Parties negotiated and agreed to a settlement that, if approved by the Court, will provide the proposed Class with non-defective replacement parts and reimbursement for costs of repair for past and future leaks as more fully set forth in the unopposed Motion for Preliminary Approval.

3. The Court stayed this action pending the Ninth Circuit’s *en banc* review of its decision in *In re Hyundai and Kia Fuel Economy Litigation*, 881 F.3d 679 (9th Cir. Jan. 23, 2018), which concerned the appropriate choice-of-law analysis a district court must conduct as part of the preliminary approval of nationwide class settlement of consumer protection claims (see ECF No. 100).

4. On June 6, 2019, the Ninth Circuit decided and published its *en banc* opinion, *Espinosa v. Ahearn (In re Hyundai & Kia Fuel Econ. Litig.)*, Nos. 15-65014, 15-56025, 15-56059, 15-56061, 15-56067, 2019 U.S. App. LEXIS 17047 (9th Cir. June 6, 2019).

1 5. On or about July 8, 2019, concurrent with the filing of this Stipulation and
2 Proposed Order, Plaintiff filed its Motion for Preliminary Approval and Motion for Leave to File
3 Third Amended Complaint.

4 6. The allegations against Whirlpool in the operative Second Amended Complaint
5 pertain only to a California class of individuals, whereas the Settlement Agreement anticipates
6 releasing claims made on behalf of a nationwide class.

7 7. The proposed Third Amended Complaint amends the class definition in order to
8 mirror the nationwide class definition in the Settlement Agreement and adds a cause of action for
9 violation of the Magnuson-Moss Warranty Act to cover non-California implied warranty of
10 merchantability claims released in the Settlement Agreement.

11 8. Defendant indicated it does not oppose the Motion for Leave to File Third
12 Amended Complaint and further that it will file its own memorandum in support of the Motion
13 for Preliminary Approval.

14 9. This case has been settled and stayed for over one year during the Ninth Circuit's
15 *en banc* review of its decision in *In re Hyundai and Kia Fuel Economy Litigation*.

16 10. The Settling Parties now seek to resolve the lawsuit in an expeditious and
17 mutually beneficial manner.

18 11. The Court has authorized the following time modifications in this case, whether
19 by stipulation and/or Court order:

- 20 • January 4, 2016 Order Granting As Modified by the Court Joint Stipulated
21 Request for Court to Reset Various Dates, including times to file Plaintiff's First
22 Amended Complaint, vacate Defendant's then-pending Motion to Dismiss,
23 Defendant's response to the First Amended Complaint, hearing on Defendant's
24 prospective Motion to Dismiss the First Amended Complaint, and the date of the
25

1 Case Management Conference and time to file a Case Management Statement;

- 2 • April 6, 2016 Order Granting Joint Stipulated Request to Continue Case
3 Management Conference from April 28, 2016 to June 2, 2016;
- 4 • May 13, 2016 Order Advancing Hearing On Defendants' Motion to Dismiss and
5 Advancing Case Management Conference from June 2, 2016 to May 26, 2016;
- 6 • June 10, 2016 Order Modifying Case Schedule, continuing the Class Certification
7 Hearing to May 11, 2017;
- 8 • June 29, 2016 Order Setting Case Schedule through to trial;
- 9 • June 3, 2017 Minute Order, continuing Class Certification Hearing to July 27,
10 2017;
- 11 • May 1, 2017 Order Granting Stipulated Request Pursuant to L.R. 6-2 for Order to
12 Amend Case Schedule As Modified by the Court, staying the case and vacating
13 all case deadlines; and
- 14 • September 27, 2017 to June 4, 2019: Orders Re Further Joint Status Updates and
15 Maintaining Stay.

16 12. The requested shortening of time will not adversely impact the schedule for the
17 case because the Settling Parties have already agreed to resolve the dispute, the case has been
18 stayed for over a year during the Ninth Circuit's *en banc* review, and advancing the hearing date
19 will serve to help bring this lawsuit to a conclusion for all parties involved.

20 13. Based on the aforementioned, the Settling Parties respectfully request that the
21 Court set the date of the hearings on Plaintiff's unopposed Motion for Preliminary Approval and
22 unopposed Motion for Leave to File Third Amended Complaint to **Thursday, July 18, 2019** at
23 9:00 a.m., or as soon as practicable for the Court.

1 I declare under penalty of perjury under the laws of the United States of America that
2 the foregoing is true and correct and that this declaration was executed July 8, 2019 in Los
3 Angeles, California.

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5 /s/ Graham B. LippSmith
6 GRAHAM B. LIPPSMITH
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CERTIFICATE OF SERVICE

I hereby certify that on July 8, 2019, I electronically filed the **DECLARATION OF GRAHAM B. LIPPSMITH** with the Clerk of the Court, using the CM/ECF system, which will send notification of such filing to the counsel of record in this matter who are registered on the CM/ECF system to receive service.

/s/ Graham B. LippSmith

Graham B. LippSmith