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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

IN RE PLAID INC. PRIVACY LITIGATION

Master Docket No. 4:20-cv-03056-DMR

THIS DOCUMENT RELATES TO:

ALL ACTIONS

**DECLARATION OF ETHAN D. DETTMER
IN SUPPORT OF DEFENDANT PLAID
INC.'S ADMINISTRATIVE MOTION TO
CONTINUE CASE MANAGEMENT
CONFERENCE**

Hon. Donna M. Ryu

Action Filed: May 4, 2020

Trial Date: None Set

1 I, Ethan D. Dettmer, declare and state as follows:

2 1. I am an attorney duly licensed to practice law before all courts of the State of
3 California, and I am a member of the Bar of this Court. I am a partner with the law firm of Gibson,
4 Dunn & Crutcher LLP, counsel for defendant Plaid Inc. ("Plaid") in this case. I make this declaration
5 in support of Plaid's Administrative Motion to Continue Case Management Conference. I have
6 personal knowledge of the matters stated herein and, if called to do so, I could and would
7 competently testify about them.

8 2. The *Cottle* Plaintiffs filed their Complaint on May 4, 2020. ECF No. 1. On May 5,
9 2020, the Court scheduled the Initial Case Management Conference for August 5, 2020. ECF No. 10.

10 3. On May 21, 2020, I called counsel for the *Cottle* Plaintiffs, Shawn Kennedy, to
11 discuss Plaid's forthcoming response to the Complaint. Through several additional emails and phone
12 calls, we agreed upon a Stipulation Extending Time to Respond to Complaint and Setting Briefing
13 Schedule (ECF No. 35), which set Plaid's deadline to respond to Plaintiffs' Complaint as July 22,
14 2020.

15 4. After that stipulation was filed, three related lawsuits were filed: *Mitchell v. Plaid*
16 *Inc.*, 3:20-cv-04230-SK (filed June 25, 2020), *Curtis, et al. v. Plaid Inc.*, 4:20-cv-04344-DMR (filed
17 June 29, 2020), and *Anderson, et al. v. Plaid Inc.*, 3:20-cv-04480-JSC (filed July 7, 2020).

18 5. In response, I worked with Mr. Kennedy and counsel for the plaintiffs in each of those
19 cases to ensure that these plaintiffs each filed motions to relate in the *Cottle* docket. Plaid filed
20 motions supporting each motion to relate, and I worked further with Mr. Kennedy to negotiate a new
21 stipulation in light of the new complaints and allegations.

22 6. On July 17, 2020, the parties to this action joined with all parties in the *Mitchell*,
23 *Curtis*, and *Anderson* matters to file a new stipulation requesting that the Court consolidate those
24 actions under Federal Rule of Civil Procedure 42(a) (the "Stipulation"). ECF. No. 51. The
25 Stipulation provided: a structure for Plaintiffs' lawyers to organize and interact with counsel for
26 Plaid; that Plaintiffs will file a consolidated amended complaint one week after entry of the
27 stipulation; and that Plaid will respond to that Consolidated Amended Complaint 40 days after it is
28 filed. The stipulation also set a briefing schedule for Plaid's anticipated motion to dismiss.

1 7. On July 17, 2020, another related lawsuit was filed, making virtually identical claims:
2 *Evans, et al. v. Plaid Inc.*, 3:20-cv-04804-JSC.

3 8. On July 24, 2020, a week after the Stipulation was filed, Mr. Kennedy sent an email
4 requesting that we work together to file a new joint administrative motion or stipulation to outline the
5 procedural status, and request that the Court grant the Stipulation and set a new case management
6 conference (“CMC”) 30 days after ruling on the Stipulation. I responded that we would discuss with
7 our client and get back to him.

8 9. On July 27, 2020, Mr. Kennedy replied to my email and requested an update. I
9 responded that Plaid would agree to “a further stipulation regarding consolidation and scheduling,”
10 but I stated that Plaid’s position was “that efficiency will be much better served for the parties and the
11 Court if the CMC is pushed back to after the ruling on the motion to dismiss,” and that the stipulation
12 would “need to make that clear.” I requested that Mr. Kennedy “[p]lease let me know if [he]’d like to
13 discuss.” I did not hear back from Mr. Kennedy until he filed an administrative motion to continue
14 the CMC.

15 10. On July 27, 2020, the Plaintiffs filed an administrative motion to continue the CMC.
16 ECF No. 54.

17 11. On July 28, 2020, Plaid filed its response to Plaintiffs’ motion to continue the CMC,
18 which advocated for the matter to be heard after the pleadings were settled to promote economy for
19 the Court and the Parties. ECF No. 55.

20 12. On July 29, 2020, the Court granted the Plaintiffs’ motion to continue the CMC but
21 extended the deadline beyond Plaintiffs’ requested date and noted that it “may further continue this
22 date as appropriate based on Defendant’s response to the Consolidated Amended Complaint.” ECF
23 No. 58 at 1.

24 13. On September 11, 2020, in light of the Court’s indication that it may further continue
25 the CMC and the Defendant’s forthcoming Motion to Dismiss, I called Mr. Kennedy to attempt to
26 obtain a stipulation to continue the CMC to a date after the Court’s resolution of the pleadings. Mr.
27 Kennedy and I discussed potential compromises, and indicated that we would discuss further with
28 one another after we had discussed with our respective teams.

14. On Monday, September 14, 2020 I called Mr. Kennedy and left him a message following up on our earlier conversation. Mr. Kennedy later returned my call, stating that Plaintiffs would not agree to continue the CMC, and that Plaintiffs believed the CMC and discovery should continue on the current schedule.

15. On September 14, 2020, Defendant filed its Motion to Dismiss. ECF No. 78.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct, and that this declaration was executed at San Anselmo, California on this 14th day of September, 2020.

/s/ Ethan D. Dettmer

Ethan D. Dettmer