

U.S. DISTRICT COURT

ON MAY 21 2004 18

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

KIMBERLEY SMITH, MICHAEL B.
HINCKLEY, JACQUELINE T.
HLADUN, MARILYN J. CRAIG,
JEFFERY P. CLEVINGER, and
TIMOTHY C. KAUFMANN, individually
and on behalf of those similarly situated,

Plaintiffs,

vs.

MICRON ELECTRONICS, INC., a
Minnesota corporation,

Defendant.

Case No. CIV 01-0244-S-BLW

**STIPULATED MOTION
TO STAY CERTAIN LITIGATION
PROCEEDINGS PENDING JUNE 16, 2004
MEDIATION AND TO ESTABLISH NEW
BRIEFING SCHEDULE ON FINAL
CLASS CERTIFICATION**

COMES NOW the above-named Plaintiffs and the Defendant (the "Parties") and hereby stipulate and so respectfully move that the Court order the following:

1. In the interests of resolving the case expeditiously and to avoid further expenditure of resources, the Parties have agreed to hold a one-day mediation with Merlyn W. Clark of Clark Dispute Resolution, LLC, in Boise, Idaho, on June 16, 2004 beginning at 9:00 a.m. This mediation does not supplant the two-day mediation scheduled before Mr. Clark for

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PROCEEDINGS PENDING JUNE 16, 2004 MEDIATION AND TO ESTABLISH NEW
BRIEFING SCHEDULE ON FINAL CLASS CERTIFICATION - 1**

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August 23-24 (and set pursuant to Order of this Court (Docket No. 172). Instead, the parties will keep the August mediation dates should additional mediation be necessary.

2. Except as set forth in paragraphs 3 - 5, below, the Court should suspend all discovery and litigation proceedings in this matter pending completion by the Parties of the June 16, 2004 mediation. Specifically, the Parties wish to suspend all currently-set or requested depositions, with the agreement that if the case does not settle on June 16, 2004, the Parties will resume completion of the depositions after that time. Additionally, the Parties wish to suspend responsive briefing schedules on motions already filed with the Court (Docket Nos. 176-178 (Plaintiffs' Motion for Protective Order) and Nos. 179-183 (Defendant's Partial Summary Judgment Motion).

3. Except as noted in this paragraph, Plaintiffs will respond to Defendant's First, Second, Third and Fourth Set of Requests for Admissions, as well as Defendant's Second Set of Interrogatories, within the timeframe set forth in Judge Williams' Order Granting Plaintiffs' Motion to Extend Time to Respond to 563 Requests for Admission and Interrogatories (Docket No. 184). Plaintiffs may delay responding to the following discovery requests until after the June 16, 2004 mediation: From the First Set of Requests for Admissions, the requests which address dates of employment (for example, Nos. 1-2, 5-6, 9-10, 13-14, etc.) and from the Second Set of Interrogatories Nos. 15, and 21-23. All other outstanding discovery requests must be responded to as ordered by Judge Williams.

4. Defendant will be filing a motion to dismiss certain class members (who, for example, are not properly class members, opted-out, failed to appear, or could not be contacted

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by Plaintiffs' counsel). Plaintiffs will timely file a response to said motion in the time frame provided under the Local Rules.

5. The Parties also anticipate completion of additional motions (for Plaintiffs a Motion for Summary Judgment with regard to liquidated damages and for Defendant two more partial summary judgment motions). However, the Parties agree to withhold from filing of these enumerated motions until after the June 16 mediation. The Parties may, at their discretion, provide courtesy copies of such briefing to opposing counsel prior to June 16, 2004, but the Parties agree that no response dates will begin to run until such time as the briefing is actually filed (if necessary) after the June 16 mediation.

6. Pursuant to agreement of the parties and permission of the Court, the hearing on final class certification that was previously set for July 13, 2004 at 8:00 a.m. (Docket No. 166, p.3, ¶ 8), has already been vacated and notice served and filed resetting said hearing for September 22, 2004 at 1:00 p.m. (Docket No. 186).

7. In order to further the Parties' desire to conserve resources, the Parties agree and move that the briefing schedule previously set concerning final class certification (Docket No. 166, p.3, ¶ 7) be reset as follows:

All motions and supporting briefing concerning the final class certification issue shall be filed on or before **July 14, 2004**.

All response briefs shall be filed on or before **August 13, 2004**.

All reply briefs shall be filed on or before **September 3, 2004**.

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8. The Parties further agree and move that the expert disclosure deadlines previously set by the Court (Docket No. 166, p.3, ¶¶ 9-10), be amended as follows:

The Plaintiffs shall disclose the experts they intend to be called at trial regarding non-class certification issues on or before **October 15, 2004**.

The Defendant shall disclose the experts it intends to be called at trial regarding non-class certification issues on or before **November 19, 2004**.

All rebuttal experts shall be identified on or before **December 17, 2004**.

9. The Parties also specifically agree and represent to the Court that this proposed schedule and suspension of certain discovery and briefing deadlines shall not prejudice, compromise or alter the trial date previously set in this case for July 11, 2005. (Docket No. 166, p. 1, ¶ 1.)

DATED

5/20/04

By:

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DATED

May 19, 2004

By:

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