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6 Attorneys for Plaintiff  
KATHLEEN SMITH  
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9 **UNITED STATES DISTRICT COURT**  
10 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**  
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12 KATHLEEN SMITH, on behalf of herself and all  
13 others similarly situated,

14 Plaintiff,

15 v.

16 KEURIG GREEN MOUNTAIN, INC.,

17 Defendant.  
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Case No. 4:18-cv-06690-HSG  
Assigned to Hon. Haywood S. Gilliam,  
Jr.

**JOINT ADMINISTRATIVE  
MOTION TO STAY PROCEEDINGS  
AND TO MODIFY CASE  
SCHEDULE**

Pursuant to Civil Local Rule 6-3, Plaintiff Kathleen Smith (“Plaintiff”) and Defendant Keurig Green Mountain, Inc. (“Defendant”) (collectively, the “Parties”) hereby move the Court to stay all proceedings in this matter other than those related to approval of a proposed settlement, and to replace the current schedule in this case with a schedule for Plaintiff’s anticipated motion for preliminary approval of class action settlement agreement. The Parties are pleased to report that they have reached an agreement in principle to resolve all claims raised by Plaintiff and the Class. The Parties are diligently working to convert the terms of their agreement (which are currently memorialized in a term sheet) into a settlement agreement.

### **BACKGROUND**

On October 21, 2020, this Court set case deadlines pursuant to Federal Rule of Civil Procedure 16 and Civil Local Rule 16-10 (ECF No. 103).

On May 11, 2021, the Parties participated in a full day of mediation with the Honorable Morton Denlow.

On June 4, 2021, the Parties filed a Stipulation to extend the deadlines to exchange opening expert reports, rebuttal expert reports, and the close of discovery by one month (ECF No. 117), which the Court granted (ECF No. 119).

On July 14, 2021, the Parties filed a Joint Administrative Motion to extend the deadlines to exchange opening expert reports, rebuttal expert reports, and the close of discovery by three months (ECF No. 114), which the Court granted (ECF No. 115).

On September 21, 2021, the Parties participated in a second full day of mediation with the Honorable Morton Denlow. Since the mediation, the Parties have continued to pursue settlement discussions, both on their own and with the assistance of the mediator.

On October 26, 2021, the Parties reached an agreement in principle to resolve all claims raised by Plaintiff and the Class. The Parties are diligently working to convert the terms of their agreement (which are currently memorialized in a term sheet) into a settlement agreement.

### **DISCUSSION**

The Parties are very mindful of the Court’s reluctance to modify the case schedule in this matter. However, good cause exists to stay proceedings in this case (except those related to the

proposed settlement) and to suspend the current schedule and to replace it with a schedule for Plaintiff's motion for preliminary approval of class action settlement agreement. The Parties have reached an agreement to resolve all claims raised by Plaintiff and the Class, and believe it makes sense to prioritize converting the terms of their agreement (which are currently memorialized in a term sheet) into a settlement agreement and then to seek the Court's preliminary approval of the settlement agreement rather than focusing their attention on expert reports and discovery.

The Parties' proposed schedule below is based on the Court's "Scheduling Notes," which currently indicate that the soonest available date for law and motion matters is March 10, 2022.

Accordingly, the Parties jointly request that the Court stay all proceedings in this matter except those related to approval of a class action settlement and to replace the current case schedule with a schedule for Plaintiff's motion for preliminary approval of class action settlement agreement as follows:

Event	Proposed Deadline
Motion for Preliminary Approval of Class Action Settlement	February 24, 2022
Hearing on Motion for Preliminary Approval of Class Action Settlement	March 10, 2022

Dated: October 26, 2021

LEXINGTON LAW GROUP

/s/ Howard Hirsch

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Attorneys for Plaintiff

KATHLEEN SMITH

1 DATED: October 26, 2021

DORSEY & WHITNEY LLP

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3 By /s/ Creighton Magid

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14 Attorneys for Defendant  
KEURIG GREEN MOUNTAIN, INC.

**ATTESTATION**

I, Howard Hirsch, am the CM/ECF user whose ID and password are being used to file this Joint Case Management Conference Statement. Pursuant to Local Civil Rule 5-1(i)(3), I hereby attest that Keurig Green Mountain, Inc., on whose behalf this filing is jointly submitted, has concurred in this filing.

/s/ Howard Hirsch

Howard Hirsch

**CERTIFICATE OF SERVICE**

I, Howard Hirsch, an attorney, hereby certify that on October 26, 2021, I caused a complete and accurate copy of the foregoing document to be served via this Court's ECM/ECF notification system, which will serve electronically to all participants in this case.

/s/ Howard Hirsch

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12 **UNITED STATES DISTRICT COURT**  
13 **NORTHERN DISTRICT OF CALIFORNIA**  
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Case No. 4:18-cv-06690-HSG  
Assigned to Hon. Haywood S. Gilliam, Jr.

**DECLARATION OF HOWARD HIRSCH  
IN SUPPORT OF JOINT  
ADMINISTRATIVE MOTION TO STAY  
PROCEEDINGS AND TO MODIFY CASE  
SCHEDULE**

**DECLARATION OF HOWARD HIRSCH**

I, Howard Hirsch, declare:

1. I am an attorney duly licensed to practice before this Court and a partner at the Lexington Law Group, counsel of record for Plaintiff Kathleen Smith ("Plaintiff") in this matter. I have personal knowledge of all the facts contained in this declaration, and, if called as a witness, I could and would competently testify thereto.

2. On October 21, 2020, this Court set case deadlines pursuant to Federal Rule of Civil Procedure 16 and Civil Local Rule 16-10 (ECF No. 103).

3. On May 11, 2021, the Parties participated in a full day of mediation with the Honorable Morton Denlow.

4. On June 4, 2021, the Parties filed a Stipulation to extend the deadlines to exchange opening expert reports, rebuttal expert reports, and the close of discovery by one month (ECF No. 117), which the Court granted (ECF No. 119).

5. On July 14, 2021, the Parties filed a Joint Administrative Motion to extend the deadlines to exchange opening expert reports, rebuttal expert reports, and the close of discovery by three months (ECF No. 114), which the Court granted (ECF No. 115).

6. On September 21, 2021, the Parties participated in a second full day of mediation with the Honorable Morton Denlow. Since the mediation, the Parties have continued to pursue settlement discussions, both on their own and with the assistance of the mediator.

7. On October 26, 2021, the Parties reached an agreement in principle to resolve all claims raised by Plaintiff and the Class. The Parties are diligently working to convert the terms of their agreement (which are currently memorialized in a term sheet) into a settlement agreement.

8. This requested time modification will stay all existing dates and set a hearing date for Plaintiff's Motion for Preliminary Approval of Class Action Settlement.

9. Good cause exists to stay proceedings in this case (except those related to the proposed settlement) and to suspend the current schedule and to replace it with a schedule for Plaintiff's motion for preliminary approval of class action settlement agreement. The Parties have reached an agreement to resolve all claims raised by Plaintiff and the Class, and believe it makes sense to prioritize

1 converting the terms of their agreement (which are currently memorialized in a term sheet) into a  
2 settlement agreement and then to seek the Court's preliminary approval of the settlement agreement  
3 rather than focusing their attention on expert reports and discovery.

4 10. The Parties' proposed schedule is based on the Court's "Scheduling Notes," which  
5 currently indicate that the soonest available date for law and motion matters is March 10, 2022.

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7 I declare under penalty of perjury under the laws of the State of California that the foregoing is  
8 true and correct. Executed this 26th day of October, 2021, in San Francisco, California.

9 /s/ Howard Hirsch  
10 Howard Hirsch  
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**CERTIFICATE OF SERVICE**

All Case Participants are registered for the USDC CM/ECF System

***Kathleen Smith v. Keurig Green Mountain, Inc.***  
***Northern District of California Case Number 4:18-cv-06690-HSG***

**DECLARATION OF HOWARD HIRSCH IN SUPPORT OF JOINT ADMINISTRATIVE  
MOTION TO STAY PROCEEDINGS AND TO MODIFY CASE SCHEDULE**

I hereby certify that on October 26, 2021, I electronically filed the foregoing document with the Clerk of the Court for the United States District Court for the Northern District of California by using the court's CM/ECF system.

Participants in the case who are registered CM/ECF users will be automatically served by the CM/ECF system.

Dated: October 26, 2021

LEXINGTON LAW GROUP

By: /s/ Howard Hirsch  
Howard Hirsch

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Case No. 4:18-cv-06690-HSG  
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**[PROPOSED] SCHEDULING  
ORDER**

**[PROPOSED] ORDER**

Having considered the Joint Administrative Motion to Stay Proceedings and to Modify the Case Schedule, the Court stays all proceedings and **SETS** the following schedule:

<b>Event</b>	<b>Proposed Deadline</b>
Motion for Preliminary Approval of Class Action Settlement	February 24, 2022
Hearing on Motion for Preliminary Approval of Class Action Settlement	March 10, 2022

**IT IS SO ORDERED.**

Dated: October \_\_, 2021

HAYWOOD S. GILLIAM, JR.  
United States District Judge