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ATTORNEYS FOR DEFENDANT BED BATH & BEYOND INC.

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

APRIL WHITE, Individually and On Behalf
of All Others Similarly Situated,

Plaintiff,

v.

BED BATH & BEYOND INC.,
and SYNERGY, INC.
Defendant.

Case No. 2:07-CV-00891(PGS)(ES)

STIPULATION OF SETTLEMENT

The parties hereto, by and through their respective counsel, in consideration of the promises, terms and conditions contained in this Stipulation of Settlement, hereby stipulate and agree, subject to Court approval pursuant to Rule 23 of the Federal Rules of Civil Procedure, as follows:

WHEREAS:

A. April White (“Plaintiff”) has brought a putative class action captioned *White v. Bed Bath & Beyond Inc., et al.*, Civ. No. 07-00891 (the “Action”). The Action was brought in the United States District Court for the District of New Jersey on behalf of the class defined in Paragraph 1(c) of this Stipulation of Settlement against defendants Bed Bath & Beyond Inc. (“Bed Bath & Beyond” or “Defendant”) and Synergy, Inc.

B. Plaintiff's putative class action complaint (the "Complaint") alleges that Bed Bath & Beyond misrepresented the thread count in its two-ply bedding products sold in its stores and on its website by stating the number of threads in the warp and filling directions in one square inch of fabric, rather than the number of yarns.

C. Plaintiff contends that the claims asserted in the Action have merit and has engaged in a thorough investigation of the facts and the law. Based on this evaluation and extensive, arm's length negotiations between Class Counsel (defined below) and Defendant's Counsel (defined below), and Class Counsel having been fully informed about previous negotiations with Counsel in a related litigation, *Solo v. Bed Bath & Beyond, Inc., Civ. No. 06-1908*, Class Counsel and Plaintiff have determined that the settlement set forth herein are in the best interests of the Class (defined below).

D. Defendant has vigorously denied and continues to vigorously deny all of the claims and contentions alleged in the Action, denies any wrongdoing on its part, and denies any liability to the Plaintiff and any members of the Class. Defendant has also considered the risks and potential cost of continued litigation of the Action and the benefits of the proposed settlement and desires to settle the Action upon the terms and conditions set forth in this Stipulation of Settlement.

NOW, THEREFORE, it is hereby STIPULATED AND AGREED, by and between the parties, by and through their respective counsel, that: (a) the Action shall be finally and fully compromised, settled and released upon final settlement approval by the Court after a hearing or hearings as provided for in this Stipulation of Settlement; and (b) upon such approval by the Court, a Final Order and Judgment, substantially in the form of Exhibit A hereto, be entered dismissing the Action with prejudice, all upon the following terms and conditions:

I. TERMS

1. As used in this Stipulation of Settlement, the following terms shall have the following meanings:

- a. “Action” means this putative class action captioned *White v. Bed Bath & Beyond Inc., et al., Civ. No. 07-00891*.
- b. “Bar Date” means the final date on which potential Class Members may file a Proof of Claim, which will be 120 days from the Notice Date (defined below).
- c. “Class” means all purchasers during the Class Period (as defined below) of multi-ply sheet sets, pillowcases, down comforters, bedskirts, shams, duvets and down pillows from Bed Bath & Beyond that were labeled as “plied,” “two-ply” or “2-ply” (defined below as the “Covered Products”). The following persons are excluded from the settlement class: all persons who are officers, agents or directors of Bed Bath & Beyond or its subsidiaries and corporations related to Bed Bath & Beyond by shareholdings or other means of control, as well as the Judges of the Court in which the action is pending.
- d. “Class Counsel” means the law firms of Lite DePalma Greenberg & Rivas LLC, Whatley Drake & Kallas, LLC, Miano Law P.C., and Baker Law P.C.
- e. “Class Member(s)” means any member of the Class who does not elect exclusion from the Class pursuant to the terms and conditions for exclusion set out in this Stipulation of Settlement and the Notice (defined below).
- f. “Class Period” means the period commencing on August 1, 2000 and ending on October 15, 2007.

g. “Covered Products” means multi-ply sheet sets, pillowcases, down comforters, bedskirts, shams, duvets and down pillows purchased from Bed Bath & Beyond during the Class Period that were labeled as “plied,” “two-ply” or “2-ply.”

h. “Defense Counsel” means the law firm of Morgan, Lewis & Bockius LLP.

i. “Effective Date of Settlement” or “Effective Date” means the date on which the Final Order and Judgment (defined below) in the lawsuits becomes “final.” As used in this Stipulation of Settlement, “final” means:

i. If no objections to the Settlement are filed, or if any objections are filed and voluntarily withdrawn prior to the entry of the Final Order and Judgment, the date of the entry of the Final Order and Judgment; or

ii. if any objections are filed and not voluntarily withdrawn prior to the entry of the Final Order and Judgment, the later of (a) the expiration of the time to file or notice any appeal or move for reargument from the Court’s judgment approving this Stipulation of Settlement; or (b) the date of final affirmance of any appeals there from.

j. “E-mail Notice” means the notice of pendency and settlement of class action to be emailed to potential Class Members, substantially in the form attached hereto as Exhibit B.

k. “Fairness Hearing” means the hearing that is to take place after the entry of the Preliminary Approval Order (defined below) and after the Notice Date for purposes of: (a) entering the Final Order and Judgment (defined below) and dismissing the Action with prejudice; (b) determining whether the Settlement (defined below) should

be approved as fair, reasonable, adequate and in the best interests of the Class Members; and (c) ruling upon an application by Class Counsel for an award of attorneys' fees.

l. "Final Order and Judgment" means an order fully and finally approving the Settlement (defined below) and dismissing the Action with prejudice, substantially in the form attached hereto as Exhibit A.

m. "Notice" means the notice of pendency and settlement of class action to be e-mailed, mailed and published in newspapers as described in Paragraphs 22 and 24.

"Notice" means collectively the three types of Notice (E-mail Notice, Postcard Notice, and Publication Notice, as defined herein), substantially in the forms attached hereto as Exhibits B-D.

n. "Notice Date" means the date that the Notice is initially e-mailed, mailed or published (whichever occurs first, if not simultaneous).

o. "Postcard Notice" means the notice of pendency and settlement of class action to be mailed in a postcard format, substantially in the form attached hereto as Exhibit C.

p. "Preliminary Approval Order" means the Order Granting Preliminary Approval of Class Settlement, Conditionally Certifying Settlement Class, Approving Notice of Settlement of Class Action, and Scheduling Fairness Hearing, substantially in the form attached hereto as Exhibit E.

q. "Proof of Claim" means the proof of claim form(s) contemplated in Paragraphs 25–27 and substantially in the form attached hereto as Exhibit F.

r. “Publication Notice” means the notice of pendency and settlement of class action to be published in USA Today, substantially in the form attached hereto as Exhibit D.

s. “Receipt” means any or all of the following from Bed Bath & Beyond: store receipt, e-mail shipping confirmation, or packing list.

t. “Released Claims” means and includes any and all claims or causes of action that were, could have been, or should have been asserted by the named plaintiff or any member of the Class against the Released Persons (defined below), or any of them, during the class period up through the date of Preliminary Approval, based upon or related to Bed Bath & Beyond’s advertising, marketing or sale of the Covered Products, or to the facts, conduct, omissions, transactions, occurrences or matters that were alleged in the Action.

u. “Released Persons” means and includes: (a) Bed Bath & Beyond and each of its employees, assigns, attorneys, agents, and all of its past, present and future officers and directors; (b) all of Bed Bath & Beyond’s parents, subsidiaries, corporations related to Bed Bath & Beyond by shareholdings or other means of control, predecessors and successors, and each of their respective employees, assigns, attorneys, agents and past and present and future officers and directors; and (c) the following Bed Bath & Beyond vendors that were involved in the manufacture, sale and/or marketing of multi-ply bed products for Bed Bath & Beyond: E & E Co., Ltd., Synergy, Inc., Britannica Home Fashions, Inc., Divatex Home Fashions, Inc., Wamsutta, Zorlu Corporation, N.I. Teijin Shoji USA Inc., Levinsohn Textile Company, Inc., Welcome Industrial Corporation, and Phoenix Down Corporation (the release does not cover the vendor’s potential liability for

the manufacture, sale or marketing of multi-ply bed products for someone other than Bed Bath & Beyond).

v. “Releasing Parties” means Plaintiff and all Class Members, and each of their predecessors, successors, assigns, heirs, or executors.

w. “Settlement” means the settlement embodied in this Stipulation of Settlement.

x. “Settlement Administrator” means Rosenthal & Company LLC.

II. SCOPE AND EFFECT OF CERTIFICATION OF CLASS

2. For purposes of settlement only, the parties and their counsel agree that the Court should make preliminary findings and enter the Preliminary Approval Order (substantially in the form attached at Exhibit E) granting provisional certification of the Class subject to final findings and ratification in the Final Order and Judgment, and appointing the named plaintiff as the representative of the Class and Class Counsel as counsel for the Class.

3. Defendant does not consent to certification of the Class for any purpose other than to effectuate the Settlement of the Action. If this Stipulation of Settlement is terminated pursuant to its terms, or the Effective Date for any reason does not occur, the order certifying the Class for purposes of effectuating this Stipulation of Settlement, and all preliminary and/or final findings regarding that class certification order, shall be automatically vacated upon notice of the same to the Court, the Action shall proceed as though the Class had never been certified pursuant to this Stipulation of Settlement and such findings had never been made, and the Action shall return to the procedural status quo. In addition, if the Effective Date for any reason does not occur, this Stipulation of Settlement shall automatically be terminated as though never entered into and no persons or entities shall have any rights or obligations hereunder.

4. In the event the terms or conditions of this Stipulation of Settlement are substantially modified by any court, Defendant reserves the right, in its sole discretion to be exercised within fourteen (14) days after such modification, to declare this Stipulation of Settlement null and void.

5. Upon the Effective Date, the Releasing Parties shall be deemed to have, and by operation of the Final Order and Judgment shall have, fully, finally and forever released, relinquished, and discharged all Released Claims against the Released Persons.

6. The Release effected by this Stipulation of Settlement is intended to be a specific, and not a general, release.

III. SUBMISSION OF THE SETTLEMENT TO THE COURT FOR REVIEW

7. As soon as is practicable but no later than twenty-one (21) days following the signing of this Stipulation of Settlement, Class Counsel shall apply to the Court for entry of the Preliminary Approval Order (substantially in the form attached at Exhibit E), for the purpose of, among other things:

a. Approving the E-mail Notice, Postcard Notice, and Publication Notice, substantially in form set forth at Exhibits B-D;

b. Finding that the requirements for provisional certification of the Class have been satisfied, appointing the named plaintiff as the representative of the Class, and Class Counsel as counsel for the Class, and preliminarily approving the Settlement as being within the range of reasonableness such that the Notice should be sent to Class Members;

c. Scheduling the Fairness Hearing not more than one hundred and twenty (120) days following the Notice Date to determine whether the Settlement should be

approved as fair, reasonable, adequate and in the best interests of the Class Members, and whether a Final Order and Judgment should be entered dismissing the Action with prejudice;

- d. Preliminarily approving the form of the Final Order and Judgment;
- e. Directing that Notice of the Settlement and of the Fairness Hearing shall

be given to the Class by:

- i. e-mailing once, on the Notice Date as specified in the Preliminary Approval Order, an E-mail Notice substantially in the form attached as Exhibit B hereto, to the last known e-mail addresses of potential Class Members to the extent such e-mail address information exists in Bed Bath & Beyond's customer email database;

- ii. sending a Postcard Notice to the last known mailing address of potential Class Member for whom Bed Bath & Beyond receives an e-mail "bounce-back," to the extent such mailing address information exists in Bed Bath & Beyond's customer email database;

- iii. publishing a 1/8 page Publication Notice in USA Today (a) on the first available Friday after the Notice Date as specified in the Preliminary Approval Order and (b) on a Monday, Tuesday, Wednesday, or Thursday that is at least ten (10) days after the date the first notice is published; and

- iv. providing a link on its website, www.bedbathandbeyond.com, and on Class Counsel's websites to a settlement website to be designed and maintained by the Settlement Administrator that will contain the settlement

documents, a list of important dates, and any other information to which the parties may agree;

f. Providing that Class Members will have until the Bar Date to submit Proofs of Claim;

g. Providing that any objections by any Class Member to the certification of the Class and the proposed Settlement contained in this Stipulation of Settlement, and/or the entry of the Final Order and Judgment, shall be heard and any papers submitted in support of said objections shall be considered by the Court at the Fairness Hearing only if, on or before the date(s) specified in the Notice and Preliminary Approval Order, such objector files with the Court a notice of the objector's intention to appear, submits documentary proof that the objector is a Class Member, states the basis for such objections, and serves copies of the foregoing and any other papers in support of such objections upon Defense Counsel and Class Counsel so that such papers are actually received by Defense Counsel and Class Counsel by the date specified in the Notice;

h. Establishing dates by which the parties shall file and serve all papers in support of the application for final approval of the Settlement and/or in response to any valid and timely objections;

i. Providing that all Class Members will be bound by the Final Order and Judgment dismissing the Action with prejudice unless such members of the Class timely file valid written requests for exclusion in accordance with this Stipulation of Settlement and the Notice;

j. Providing that Class Members wishing to exclude themselves from the Settlement will have until the date specified in the Notice to submit a valid written request for exclusion to the Settlement Administrator;

k. Providing a procedure for Class Members to request exclusion from the Settlement;

l. Pending the Fairness Hearing, staying all proceedings in the Action, other than proceedings necessary to carry out or enforce the terms and conditions of this Stipulation of Settlement;

m. Pending the Fairness Hearing, enjoining the named plaintiff from commencing or prosecuting, either directly or indirectly, any action asserting any of the Released Claims; and

8. Following the entry of the Preliminary Approval Order, the Notice shall be given and published in the manner directed and approved by the Court.

IV. THE SETTLEMENT CONSIDERATION

9. Provided that the Settlement is granted final approval, Class Members who have a Receipt showing proof of purchase of a Covered Product during the Class Period and do not wish to keep their products, will receive a refund of their purchase price. To obtain a refund, Class Members must sign a Proof of Claim affirming under oath that they purchased a Covered Product during the Class Period and provide an original or copy of the Receipt. Class Members will then receive a refund certificate from Bed Bath & Beyond or the Settlement Administrator, indicating the amount of the refund (not including sales tax). Class Members must then return to a Bed Bath & Beyond store the product itself and the refund certificate to obtain the refund amount (including sales tax).

10. Provided that the Settlement is granted final approval, Class Members who have a Receipt showing proof of purchase of a Covered Product but who choose to keep their products, or Class Members who do not have Receipt showing proof of purchase of a Covered Product but have a credit card or other bank statement indicating a purchase from Bed Bath & Beyond during the Class Period in an amount equal to or greater than \$125.00, will receive a \$10.00 Bed Bath & Beyond gift card by signing a Proof of Claim affirming under oath that they purchased a Covered Product during the Class Period, providing an original or copy of the Receipt or credit card or bank statement and providing details of that purchase including date of purchase, purchase price, store location or web store purchase, and type and size of bed product.

11. Provided that the Settlement is granted final approval, Class Members who do not have a Receipt or credit card statement will receive a 20% discount certificate off any purchase (which could include more than one item, but requires that all items be purchased at the same time) up to \$250.00 (maximum discount of \$50.00) by signing a Proof of Claim affirming under oath that they purchased a Covered Product during the Class Period, and providing details of that purchase including date of purchase, purchase price, store location or web store purchase, and type and size of bed product. The following characteristics will apply to the discount certificate:

- a. They will be freely transferable;
- b. They will expire in ten (10) years;
- c. They can be used only in Bed Bath & Beyond stores and not online;
- d. Normal and customary product exclusions that are contained on all of Bed Bath & Beyond's regularly issued store coupons will apply;

e. They cannot be used in combination with other rebates or coupons for Bed Bath & Beyond products; and

f. Only original discount certificates will be accepted. Stores will not accept copies.

12. Bed Bath & Beyond will have the right to investigate, verify and challenge any information and/or documents submitted with a Proof of Claim by bringing any such instances to the Court's attention for resolution.

13. Bed Bath & Beyond agrees that, for a period of five (5) years commencing with the Effective Date of Settlement, to the extent it knowingly sells multi-ply bed products containing a specific reference to a numerical thread count, such products will be labeled in accordance with the ASTM Standard for determining thread count in multi-ply bed products.

14. Bed Bath & Beyond will not object to an award of fees for Plaintiff in the amount of two thousand five hundred dollars (\$2,500.00). If approved, Bed Bath & Beyond will pay this amount to Plaintiff. To obtain this amount, within five (5) days of the Effective Date, Plaintiff shall send a W-9 tax form to Bed Bath & Beyond at 650 Liberty Avenue, Union, NJ 07083, Attention: Allan Rauch, Vice President, Legal and General Counsel. Within fifteen (15) days of the Effective Date, Bed Bath & Beyond shall pay \$2,500.00 by wire to a trust account to be established by Plaintiff.

15. No Class Member shall receive any refund, gift card, or discount certificate prior to the Effective Date.

V. ATTORNEYS' FEE AWARD

16. Subject to Court approval, Bed Bath & Beyond will pay Class Counsel the sum of two hundred ninety thousand dollars (\$290,000.00) in attorneys' fees, costs, and expenses. Bed Bath & Beyond does not oppose, and will not encourage or assist a third-party in opposing, Class Counsel's request for this amount of attorneys' fees, costs and expenses, nor does Bed Bath & Beyond contest the reasonableness of the amount.

17. In accordance with 28 U.S.C. § 1712(b)(1), Class Counsel acknowledges and understands that a portion of the settlement recovery comes in the form of gift cards or discount certificates to be given to eligible Class Members and warrants and represents that the portion of the recovery based on those discount certificates has not been used to determine the requested amount of the attorneys' fees award.

18. Class Counsel will not seek in excess of \$290,000.00 for attorneys' fees, costs and expenses and, in any event, Class Counsel agrees that Bed Bath & Beyond shall not pay, or be obligated to pay, in excess of \$290,000.00 for attorneys' fees, costs and expenses.

19. Class Counsel, and each of them, agrees that upon its compliance with the terms and conditions of this Stipulation of Settlement, Bed Bath & Beyond will forever and finally have satisfied all of its obligations to Class Counsel, or any of them, concerning payment of attorneys' fees, costs and expenses in the Action, and will forever and finally be absolved, released and discharged of any liability whatsoever to Class Counsel, or any of them, concerning attorneys' fees in the Action. It is further agreed that under no circumstances will Class Counsel, or any of them, sue Bed Bath & Beyond for, or because of, relating to, concerning, or as a result of any payment or allocation of attorneys' fees and costs made in accordance with this Stipulation of Settlement; under no circumstances will Bed Bath & Beyond be liable to Class

Counsel, or any of them, for, because of, relating to, concerning or as a result of any payment or allocation of attorneys' fees made in accordance with this Stipulation of Settlement; and Class Counsel, and each of them, releases Bed Bath & Beyond from any and all claims because of, relating to, concerning, or as a result of any payment or allocation of attorneys' fees and costs made in accordance with this Stipulation and Settlement.

20. Within five (5) days of the Effective Date, each law firm anticipating a payment of attorneys' fees shall send a W-9 tax form to Bed Bath & Beyond at 650 Liberty Avenue, Union, NJ 07083, Attention: Allan Rauch, Vice President, Legal and General Counsel. Within fifteen (15) days of the Effective Date, Bed Bath & Beyond shall pay such attorneys' fees as awarded by the Court by wire to a trust account to be jointly established by Whatley Drake & Kallas LLC. Subject to compliance with the terms of the Stipulation of Settlement, Whatley Drake & Kallas LLC shall have discretion to allocate the attorneys' fees amongst Class Counsel and Plaintiff's Counsel as they may see fit subject to the applicable rules of professional responsibility.

VI. ADMINISTRATION OF THE SETTLEMENT

21. Within fourteen (14) days of the execution of this Stipulation of Settlement by the parties, Bed Bath & Beyond will provide the Settlement Administrator information from its databases reflecting purchases of multi-ply bed products during the Class Period, including any information necessary for the Settlement Administrator to create the settlement website, process and verify claims and otherwise perform its duties under this Stipulation.

22. Within fourteen (14) days of sending the E-mail Notice, Bed Bath & Beyond will provide the Settlement Administrator information from its customer email database reflecting the last known mailing address of potential Class Members for whom Bed Bath & Beyond receives

an e-mail “bounce-back,” to the extent such mailing address information exists in Bed Bath & Beyond’s customer email database.

23. Bed Bath & Beyond shall pay directly to the Settlement Administrator the reasonable costs, fees, and expenses and is responsible for all reasonable costs associated with the administration of the Settlement, including costs of providing notice of the Settlement to potential Class Members and any other costs and expenses reasonably incurred in the administration of the Settlement.

24. The Settlement Administrator shall administer the Settlement in accordance with the terms of this Stipulation of Settlement and, without limiting the foregoing, shall:

a. Promptly direct all potential Class Members with inquiries or requests regarding the Settlement to the settlement website to be designed and maintained by the Settlement Administrator and, if the potential Class Member does not have access to the internet, promptly mail a copy of the E-Mail Notice to the potential Class Member’s mailing address;

b. Prior to mailing the Postcard Notice to Class Members (which will occur in the event of e-mail “bounce-backs” pursuant to Paragraph 22), the Settlement Administrator shall attempt to verify the addresses by consulting the National Change of Address (“NCOA”) registry. If a new address is located, the new address will be used by the Settlement Administrator for purposes of mailing the Notice;

c. Treat any and all documents, communications and other information and materials received in connection with the administration of the Settlement as confidential and shall not disclose any or all such documents, communications or other information to

any person or entity except as provided for in this Stipulation of Settlement or by Court order;

d. Forward to Bed Bath & Beyond all original documents and other materials received in connection with the administration of the Settlement; and

e. Provide biweekly updates to Bed Bath & Beyond regarding responses from potential Class Members, categorized by opt-outs, requests for refund certificates, requests for gift cards, and requests for discount certificates, in a form and manner to be agreed upon by the Settlement Administrator and Bed Bath & Beyond;

f. Receive exclusion forms and other requests from members of the Class to exclude themselves from the Settlement and provide to Class Counsel and Defense Counsel a copy thereof within fourteen (14) days of receipt. If the Settlement Administrator receives any exclusion forms or other requests from potential Class Members to exclude themselves from the Settlement after the deadline for the submission of such forms and requests, the Settlement Administrator shall promptly provide Class Counsel and Defense Counsel with copies thereof.

g. Within nine (9) weeks of the Bar Date, provide Bed Bath & Beyond with an electronic file, in a format to be agreed upon between the Settlement Administrator and Bed Bath & Beyond, containing all responses to the Notice, categorized by opt-outs, rejected claims, requests for refund certificates, requests for gift cards, and requests for discount certificates.

25. Proof of Claim forms will be made readily available from the Settlement Administrator, as provided in the Preliminary Approval Order.

26. Any Class Member who, in accordance with the terms and conditions of the Stipulation of Settlement, neither seeks exclusion from the Class nor files a Proof of Claim will not be entitled to receive any cash award, benefit, or any other relief except for injunctive relief, pursuant to this Stipulation of Settlement, but will be bound together with all Class Members by all of the terms of this Stipulation of Settlement, including the terms of the Final Order and Judgment to be entered in the Action and the releases provided for herein, and will be barred from bringing any action against any of the Released Persons concerning the Released Claims.

27. For purposes of determining the extent, if any, to which a Class Member shall be entitled to benefits under this Stipulation of Settlement, the following conditions apply:

a. Each Class Member shall submit one Proof of Claim for each Receipt for a Covered Product, electing either a refund, gift card, or discount certificate for each Proof of Claim. Class Members who do not have a Receipt but who have a credit card or other bank statement indicating a purchase from Bed Bath & Beyond during the Class Period in an amount equal to or greater than \$125.00 shall file one Proof of Claim for each credit card statement, electing a gift card and including all information, as required in Paragraph 10. Class Members who do not have a Receipt or credit card or other bank statement should file a single Proof of Claim for each Purchase Date on which that Class Member purchased a Covered Product, electing a discount certificate and including all information for each purchase, as required in Paragraph 11. When requested in the Proof of Claim, the Proof of Claim shall be signed under penalty of perjury.

b. Proofs of claim may be rejected for, among other reasons, the following:

- i. Illegible Proof of Claim or supporting documentation;
- ii. Failure to sign the Proof of Claim;

iii. Failure to fully provide all purchase information necessary for the Settlement Administrator or Bed Bath & Beyond to confirm the purchase;

iv. Failure to provide adequate proof of purchase of a multi-ply bed product during the Class Period if the same is required;

v. The person submitting the Proof of Claim is not a Class Member;

vi. Any other reason contemplated by this Stipulation of Settlement;

or

vii. Failure to submit a Proof of Claim by the Bar Date.

c. Any Class Member who fails to submit a Proof of Claim by the Bar Date shall be forever barred from receiving any benefit other than injunctive relief, pursuant to this Stipulation of Settlement, but shall in all other respects be bound by all of the terms of this Stipulation of Settlement including the terms of the Final Order and Judgment to be entered in the Action and the releases provided for herein, and will be barred from bringing any action against any of the Released Persons concerning any of the Released Claims. A Proof of Claim shall be deemed to have been submitted when posted, if received with a postmark, or equivalent mark by a courier company indicated on the envelope or mailer and if mailed with pre-paid postage and addressed in accordance with the instructions set out in the Proof of Claim. Proofs of Claim may not be submitted via e-mail.

d. Each Proof of Claim shall be submitted to and reviewed by the Settlement Administrator, who shall determine in accordance with the terms and conditions of this Stipulation of Settlement the extent to which each claim shall be allowed. The

Settlement Administrator shall use all reasonable efforts and means to identify and reject duplicate and/or fraudulent claims, including, without limitation, indexing all claim forms and Receipts submitted by Class Members by unique control number, the name of the Class Member to whom each refund, gift card, or discount certificate has been provided, and/or by such other method as may be agreed by the parties.

e. Proofs of Claim that do not meet the terms and conditions of this Stipulation of Settlement shall be promptly rejected by the Settlement Administrator. The Settlement Administrator shall notify in writing each Class Member whose Proof of Claim is rejected in whole or in part. Defense Counsel and Class Counsel shall be copied on all such notifications to Class Members.

f. Any Class Member whose Proof of Claim is rejected shall be entitled to cure the insufficiency, and/or to dispute the Settlement Administrator's decision. A Class Member shall have fourteen (14) days from the receipt of any rejection letter to cure the insufficiency or dispute the Settlement Administrator's decision, even if the date to cure falls after the Bar Date.

g. Defense Counsel and Class Counsel shall have the right to inspect the Proofs of Claim and supporting documentation received by the Settlement Administrator at any time upon reasonable notice.

28. Bed Bath & Beyond or the Settlement Administrator shall distribute refunds, gift cards, and discount certificate to eligible Class Members within twelve (12) weeks after the Final Order and Judgment.

29. All notification duties imposed by 28 U.S.C. § 1715, including the corresponding expenses, shall be borne by Bed Bath & Beyond separately and in addition to any other obligation imposed herein.

VII. BEST EFFORTS

30. The parties and their counsel agree to cooperate fully with one another and to use their best efforts to effectuate the Settlement, including without limitation by seeking preliminary and final Court approval of the Stipulation of Settlement and the Settlement embodied herein, carrying out the terms of this Stipulation of Settlement, and promptly agreeing upon and executing all such other documentation as may be reasonably required to obtain final approval by the Court of the Settlement.

31. The parties and their counsel understand and agree that the administration of a class action lawsuit can be complex and that, from time to time after the entry of the Final Order and Judgment, unique, non-material issues with respect to individual Class Members may arise that are not directly covered by the terms of this Stipulation of Settlement. In the event any such issues arise, the parties and their counsel agree to cooperate fully with one another and to use best efforts to come to agreement, which agreement shall not be unreasonably withheld.

32. Each party will cooperate with the other party in connection with effectuating the Settlement or the administration of claims thereunder. Any requests for cooperation shall be narrowly tailored and reasonably necessary for the requesting party to recommend the Settlement to the Court, and to carry out its terms.

33. The parties understand that time is of the essence. The parties further agree that all confirmatory discovery must be completed no later than thirty (30) days from the execution of this Stipulation of Settlement.

VIII. RELATED LITIGATION

34. Joe Solo (“Solo”) has brought a putative class action against Bed Bath & Beyond captioned *Solo v. Bed Bath & Beyond, Inc., Civ. No. 06-1908* (the “Solo Litigation”). The Solo Litigation was brought in the United States District Court for the District of New Jersey on behalf of the Class defined in Paragraph 1.c. of this Stipulation of Settlement.

35. As in this Action, the complaint in the Solo Litigation alleges that Bed Bath & Beyond misrepresented the thread count in its two-ply bedding products sold in its stores and on its website by stating the number of threads in the warp and filling directions in one square inch of fabric, rather than the number of yarns.

36. The Solo Litigation was dismissed with prejudice by the United States District Court for the District of New Jersey, and is currently pending appeal and mediation in the United States Court of Appeals for the Third Circuit. Counsel for Solo has advised the United States Court of Appeals for the Third Circuit of the Settlement in this Action, and has requested that the Solo Litigation appeal and mediation be placed on hold pending Settlement in this Action.

37. Defendant and Solo, by and through his counsel, have reached an individual, non-class settlement. Settlement of the Solo Litigation is contingent upon a Final Order and Judgment approving the Settlement in this Action.

38. Pursuant to the settlement in the Solo Litigation, Bed Bath & Beyond will pay Solo’s counsel the sum of one hundred eighty-five thousand dollars (\$185,000.00) in attorneys’ fees, costs, and expenses, and will pay Solo the sum of two thousand five hundred dollars (\$2,500.00).

39. The terms of the individual settlement with Solo are contained in a separate agreement.

40. In the event the Stipulation of Settlement is terminated pursuant to its terms, or the Effective Date for any reason does not occur, Solo's counsel will advise the United States Court of Appeals for the Third Circuit, settlement of the Solo Litigation will be void.

41. Provided that the Settlement in this Action is granted final approval, the Solo Litigation will be marked as settled and closed.

IX. MISCELLANEOUS PROVISIONS

42. All proceedings with respect to the administration, processing and determination of Proofs of Claim or attorneys' fees described in this Stipulation of Settlement and the determination of all controversies relating thereto, shall be subject to the continuing jurisdiction of the Court.

43. The parties agree that the recitals contained herein are contractual in nature and form a material part of this Stipulation of Settlement.

44. This Stipulation of Settlement and its accompanying Exhibits set forth the entire understanding of the parties. No change or termination of this Stipulation of Settlement shall be effective unless in writing and signed by both Defense Counsel and Class Counsel. Any and all previous agreements and understandings between or among the parties regarding the subject matter of this Stipulation of Settlement, whether written or oral, are superseded by this Stipulation of Settlement.

45. This Stipulation of Settlement and the Settlement contemplated herein shall be governed by, and construed in accordance with, the laws of the State of New Jersey, without regard to conflict of laws principles.

46. All of the parties warrant and represent that they are agreeing to the terms of this Stipulation of Settlement based upon the legal advice of their respective attorneys, that they have been afforded the opportunity to discuss the contents of this Stipulation of Settlement with their attorneys and that the terms and conditions of this document are fully understood and voluntarily accepted.

47. This Stipulation of Settlement shall be construed as though it was jointly drafted by all of the parties, and any rule of construction to the effect that ambiguities are resolved against the drafting party shall not apply to the interpretation of this document.

48. The waiver by any party of a breach of any term of this Stipulation of Settlement shall not operate or be construed as a waiver of any subsequent breach by any party. The failure of a party to insist upon strict adherence to any provision of the Stipulation of Settlement shall constitute a waiver or thereafter deprive such party of the right to insist upon strict adherence.

49. The headings in this Stipulation of Settlement are inserted merely for the purpose of convenience and shall not affect the meaning or interpretation of this document.

50. If any term or provision of this Stipulation of Settlement is adjudicated to be invalid, unenforceable or void, then such term or provision shall be deemed severable from this Stipulation of Settlement. In the event any term or provision is severed from this Stipulation of Settlement as the result of an adjudication by a court, the remaining terms and conditions of the Stipulation of Settlement shall continue to be given full force and effect.

51. The provisions contained in this Stipulation of Settlement are not and shall not be deemed a presumption, concession or admission by Bed Bath & Beyond or Synergy, Inc. of any default, fault, liability or wrongdoing as to any facts or claims alleged or asserted in the Action, or in any actions or proceedings, nor shall they be interpreted, construed, deemed, invoked, offered, or received in evidence or otherwise used by any person in the Action, or in any other action or proceeding, whether civil, criminal or administrative. In particular, Bed Bath & Beyond does not admit that it or any of the Released Persons has engaged in any illegal or wrongful activity or that any person has sustained any damage by reason of any of the facts complained of in the Action.

52. This Stipulation of Settlement may be executed in counterparts, each of which shall be deemed an original and all of which, when taken together, shall constitute one and the same instrument. The date of execution shall be the latest date on which any party signs the Stipulation of Settlement.

IN WITNESS WHEREOF, the parties hereto, by and through their respective attorneys, and intending to be legally bound hereby, have duly executed this Stipulation of Settlement as of the date set forth below.

Dated: _____
Allan Rauch, Vice President, Legal and General Counsel,
Defendant Bed Bath Beyond Inc.

Dated: _____
Plaintiff April White

Dated: _____
Morgan, Lewis & Bockius LLP
Attorneys for Defendant Bed Bath & Beyond Inc.

Dated: _____
Lite DePalma Greenberg & Rivas LLC

Dated: _____
Whatley Drake & Kallas, LLC

Dated: _____
Miano Law P.C.

Dated: _____
Baker Law P.C.
Attorneys for Plaintiff and Class