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10 Attorneys for Defendant
11 WELLS FARGO BANK, N.A.

12 UNITED STATES DISTRICT COURT
13 EASTERN DISTRICT OF CALIFORNIA

14 BRENDAN O’LEARY, on behalf of) CASE NO. 2:10-cv-01913-MCE-GGH
15 himself and all others similarly situated,)
16) Hon. Morrison C. England, Jr.
17 Plaintiff,)
18) **STIPULATION TO TAKE HEARING ON**
19 v.) **MOTION TO DISMISS OFF CALENDAR AND**
20) **EXTEND TIME FOR PLAINTIFF TO**
21 WELLS FARGO BANK, N.A. and) **RESPOND;ORDER**
22 DOES 1 through 50, inclusive,)
23)
24 Defendants.)
25)
26)
27)
28)

29 WHEREAS the hearing on Defendant Wells Fargo Bank, N.A.’s Motion to Dismiss (ECF
30 No. 14) was scheduled for September 6, 2011; and

31 WHEREAS the Parties have reached a putative nationwide class action settlement in
32 principle of this case and other parallel cases pending in the Northern District of California and
33 Northern District of Illinois;

34 WHEREAS the Parties are diligently working on documenting the settlement; and

35 WHEREAS Plaintiff Brendan O’Leary, after conferring with counsel for Defendant prior to
36 the due date for his opposition to Wells Fargo’s Motion to Dismiss, has not responded to the Motion
37 to Dismiss due to the impending settlement;

1 WHEREAS, taking the Motion to Dismiss off calendar, to be re-noticed should the
2 settlement not receive final approval for any reason, will maximize efficiency for the Parties and the
3 Court; and

4 WHEREAS, should the settlement fall through and the Motion to Dismiss be re-noticed at a
5 later date, the Parties agree that Plaintiff should be given an opportunity to respond to the Motion;
6 and

7 WHEREAS, the Parties agree to keep this Court regularly apprised as to the status of the
8 proposed settlement;

9 THEREFORE, IT IS STIPULATED by the Parties hereto, through their attorneys of record,
10 pursuant to Local Rule 143, that:

11 (1) Defendant's Motion to Dismiss shall be vacated, with leave to re-notice the Motion
12 should settlement fall through for any reason; and

13 (2) Plaintiff's deadline to respond to the Motion to Dismiss shall be extended to 14 days
14 preceding any future hearing date noticed by Defendant.

15 IT IS SO STIPULATED.

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17 Dated: September 8, 2011

LOCKE LORD BISSELL & LIDDELL LLP

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By: /s/ Daniel A. Solitro
Thomas J. Cunningham
Daniel A. Solitro

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Attorneys for Defendant
WELLS FARGO BANK, N.A.

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23 Dated: September 8, 2011

PATTERSON LAW GROUP

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By: /s/ James R. Patterson
James R. Patterson

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Attorneys for Plaintiff

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BRENDAN O'LEARY

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ORDER ON STIPULATION


Having considered the parties' stipulation and good cause appearing therefor, the Court orders as follows:

(1) Defendant's Motion to Dismiss (ECF No. 14) shall be vacated, with leave to re-notice the Motion should settlement fall through for any reason; and

(2) Plaintiff's deadline to respond to the Motion to Dismiss shall be extended to 14 days preceding any future hearing date noticed by Defendant.

The foregoing stipulation of the parties is hereby adopted and **IT IS SO ORDERED.**

Dated: September 20, 2011


MORRISON C. ENGLAND, JR.
UNITED STATES DISTRICT JUDGE