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10 Attorneys for Defendant
 PROSPECT MORTGAGE, LLC

11 UNITED STATES DISTRICT COURT
 12 EASTERN DISTRICT OF CALIFORNIA
 13 SACRAMENTO

14 ELIZABETH SLIGER, CAROL DION and)	Case No. 2:11-CV-00465-LKK-EFB
15 SCOTT AVILA, individually, on behalf of)	
16 others similarly situated, and on behalf of the)	FURTHER AMENDED STIPULATION
general public,)	TO DECERTIFY COLLECTIVE
)	ACTION; ORDER DECERTIFYING
17 Plaintiffs,)	COLLECTIVE ACTION
)	
18 v.)	
)	
19 PROSPECT MORTGAGE, LLC, and DOES 1-)	Complaint Filed: October 18, 2010
20 50, inclusive,)	
)	
21 Defendants.)	

1 IT IS HEREBY STIPULATED, by and between CAROL DION and SCOTT AVILA
2 (“Plaintiffs”) and PROSPECT MORTGAGE, LLC (“Defendant” or “Prospect”), through their
3 respective undersigned counsel, as follows:

4 WHEREAS, Plaintiffs have brought this lawsuit against Defendant alleging that they and
5 other mortgage loan officers throughout the country were misclassified as exempt employees and
6 are entitled to overtime, minimum wage, and other compensation under federal and California
7 wage-hour laws;

8 WHEREAS, Plaintiffs filed their Motion for Conditional Certification on June 28, 2011;

9 WHEREAS, this Court partially granted Plaintiffs’ motion for conditional certification
10 under section 216(b) of the Fair Labor Standards Act (“FLSA”) on August 24, 2011 (ECF No.
11 71) and ordered that notice be provided to all current and former loan officers paid on a
12 commission-only basis who worked for Prospect at any time from three years prior to date notice
13 issued to the present;

14 WHEREAS, notice was sent to the collective in November 2011 and then supplemental
15 notice was sent in January 2012 with the supplemental notice period ending on March 27, 2012;

16 WHEREAS, approximately 595 individuals have filed consents to join this lawsuit that
17 have not been withdrawn;

18 WHEREAS, over the last year the parties have conducted written discovery and taken a
19 number of depositions, including the depositions of the named plaintiffs and depositions of
20 multiple Rule 30(b)(6) witnesses;

21 WHEREAS, over the last several months the parties have been actively engaging in
22 settlement discussions to resolve the claims that Plaintiffs have asserted in this litigation;

23 WHEREAS, counsel for all parties met in Los Angeles on May 16, 2012 and July 19,
24 2012, to discuss settlement and explore potential resolution;

25 WHEREAS, counsel have exchanged data and other information over the last several
26 months in a mutual effort to further explore potential resolution;

27 WHEREAS, the parties participated in a day-long mediation in San Francisco on
28 September 21, 2012 but were unable to resolve the matter;

1 WHEREAS, Defendant has notified Plaintiffs that it intends to file a motion to decertify
2 the FLSA collective action;

3 WHEREAS, the parties agree that to avoid the cost and expense of discovery and motion
4 practice associated with a motion to decertify the collective, the parties will stipulate that this
5 matter should no longer proceed as a collective action under 29 U.S.C. § 216(b) and that the
6 individual opt-in plaintiffs, who so choose, may pursue their individual claims in other forums;

7 WHEREAS, the parties agree that all opt-in plaintiffs should be dismissed from the
8 action without prejudice to refile their individual claims in other forums;

9 WHEREAS, the parties further agree that the statutes of limitations with respect to the
10 claims asserted in this lawsuit for each individual plaintiff have been tolled since the date that the
11 individual plaintiff filed a consent form in this action, and in the event that Defendant raises the
12 statute of limitations in any action brought by any of the opt-in plaintiffs following
13 decertification, it agrees to extend any limitations period it asserts by 90 days;

14 WHEREAS, the parties further agree that the claims of the named Plaintiffs (Scott Avila
15 and Carol Dion) should not be affected by this stipulation and will continue to proceed
16 individually in this Court on the schedule set forth in the Court's latest scheduling order; and

17 IT IS HEREBY STIPULATED AND AGREED by and between Plaintiffs and
18 Defendant, through their respective undersigned counsel, that:

19 (1) The collective action previously conditionally certified on August 24, 2011 (ECF
20 No. 71) be decertified pursuant to this joint stipulation and that this case no longer proceed as a
21 collective action under 29 U.S.C. § 216(b);

22 (2) All opt-in plaintiffs (other than Carol Dion and Scott Avila) who have filed
23 consent forms in this action should be dismissed without prejudice so that those who so choose
24 may refile their individual claims in other forums;

25 (3) The statutes of limitations with respect to the claims asserted in this lawsuit for
26 each individual plaintiff have been tolled since the date that the individual plaintiff filed a
27 consent form in this action, and in the event that Defendant raises the statute of limitations in any
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1 action brought by any of the opt-in plaintiffs following decertification, it agrees to extend any
2 limitations period it asserts by 90 days;

3 (4) The named Plaintiffs, Scott Avila and Carol Dion, will continue to proceed
4 individually without any tolling in this Court on the schedule set forth in the Court's latest
5 scheduling order; and

6 (5) Plaintiffs' counsel shall provide all of the opt-in plaintiffs with notice via U.S.
7 Mail of the Court's Order to decertify the collective action. The notice that Plaintiffs' counsel
8 shall provide to all opt-in plaintiffs shall be in the form attached as Exhibit A.

9 IT IS SO STIPULATED.

10 DATED: January 22, 2013

NICHOLS KASTER, LLP

11
12 By: s/ Matthew C. Helland
13 Matthew C. Helland
14 Attorneys for Plaintiffs
15 CAROL DION and SCOTT AVILA, et al.

16 DATED: January 22, 2013

SEYFARTH SHAW LLP

17 By s/ Brandon R. McKelvey
18 Andrew M. Paley
19 Brandon R. McKelvey
20 Attorneys for Defendants
21 PROSPECT MORTGAGE, LLC
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ORDER

IT IS HEREBY ORDERED:

(1) The collective action previously conditionally certified on August 24, 2011 (ECF No. 71) is hereby decertified and this case shall no longer proceed as a collective action under 29 U.S.C. § 216(b);

(2) All opt-in plaintiffs (other than the named Plaintiffs Carol Dion and Scott Avila) who have filed consent forms in this action are hereby dismissed without prejudice so that those who so choose may refile their individual claims in other forums;

(3) The named Plaintiffs, Scott Avila and Carol Dion, will continue to proceed individually without any tolling in this Court on the schedule set forth in the Court's latest scheduling order; and

(4) Plaintiffs' counsel shall provide notice of this Order to all opt-in plaintiffs via U.S. Mail. The notice sent to the opt-in plaintiffs will be in the form attached as Exhibit A to the parties' stipulation

IT IS SO ORDERED.

Date: January 23, 2013



LAWRENCE K. KARLTON
SENIOR JUDGE
UNITED STATES DISTRICT COURT