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8 Attorneys for Plaintiffs

9  
 10 **IN THE UNITED STATES DISTRICT COURT**  
 11 **EASTERN DISTRICT OF CALIFORNIA**  
 12

13 JOANNE JOHANNSEN, individually and as )  
 14 TRUSTEES of The JOHANNSEN FAMILY )  
 TRUST Dated October 18, 1988, and The )  
 15 JOHANNSEN FAMILY SURVIVORS TRUST )  
 Dated October 18, 1988 )

16 Plaintiff,

17 v.

18 MORGAN STANLEY CREDIT )  
 19 CORPORATION, a Delaware corporation; )  
 MORGAN STANLEY DW, INC., a Delaware )  
 20 corporation; MORGAN STANLEY SMITH )  
 BARNEY GLOBAL IMPACT FUNDING )  
 21 TRUST, INC., a Maryland corporation; )  
 MORGAN STANLEY HOME LOANS, a )  
 22 business association; MORGAN STANLEY )  
 SMITH BARNEY, a business association; DOES )  
 23 1- 100, Inclusive, )

24 Defendants.

**CASE NO.: 2:11-CV-01516-MCE-KJN**

**PLAINTIFF'S APPLICATION FOR  
ORDER SHORTENING TIME ON  
MOTION FOR RECONSIDERATION;  
ORDER THEREON**

Date: April 5, 2012  
 Time: 2:00 p.m.  
 Dept: Courtroom 7

Judge: Hon. Morrison C. England, Jr.

**TO ALL PARTIES HEREIN AND TO THEIR ATTORNEYS OF RECORD:**

26 NOTICE IS HEREBY GIVEN that plaintiff JOANNE JOHANNSEN, individually and as  
 27 TRUSTEE of The JOHANNSEN FAMILY TRUST Dated October 18, 1988, and The  
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**PLAINTIFF'S APPLICATION FOR ORDER SHORTENING TIME ON MOTION FOR  
RECONSIDERATION; ORDER THEREON**

Johannsen v. Morgan Stanley Credit Corporation - No. 2:11-cv-01516-MCE-KJN

1 JOHANNSEN FAMILY SURVIVORS TRUST Dated October 18, 1988, hereby moves the Court  
2 for an order shortening time allowing the Court to thereby hear, on such shortened time, the  
3 plaintiff's accompanying motion asking the Court to vacate its prior Memorandum and Order,  
4 entered herein on January 10, 2012, and to thereafter reconsider and deny the defendants' prior  
5 motion to compel arbitration.

6 This request for an order shorting time is based upon the following facts, more fully  
7 described in the accompanying Declaration of David L. Price, counsel for plaintiff.

8 1. Upon receipt of the Court's Memorandum and Order requiring the parties to submit  
9 their dispute to binding arbitration under the auspices of FINRA, plaintiff, through her legal counsel,  
10 contacted FINRA and obtained an application to formally and properly submit the matter.

11 2. Plaintiff's counsel had several conversations with FINRA representatives and  
12 thereafter completed FINRA's rather extensive application.

13 3. Following FINRA's review of the application, its management staff contacted Mr.  
14 Price advising of FINRA's concern that it was being asked to arbitrate what appeared to FINRA to  
15 be a real estate dispute about which FINRA had no particular expertise. Mr. Price reiterated that  
16 there was a court order compelling such a procedure and FINRA accepted the application for  
17 processing.

18 4. On March 15, 2012, plaintiff's counsel received a letter dated March 13, 2012 in  
19 which FINRA advised that Morgan Stanley DW Inc.'s FINRA membership has been terminated,  
20 as a result of which Morgan Stanley cannot compel a party to arbitrate with FINRA  
21 (notwithstanding a writing which so requires).

22 5. Plaintiff was specifically advised that FINRA's Code of Arbitration Procedure  
23 "prohibits any FINRA member whose membership is terminated, suspended, canceled or revoked  
24 . . . from enforcing predispute arbitration agreements with its customers to arbitrate with FINRA."  
25 FINRA also advised that it was nonetheless willing to host such a proceeding but ONLY if Ms.  
26 Johannsen so stipulates.

27 6. **Plaintiff Johannsen does NOT desire to arbitrate, particularly with FINRA.**



1 **ORDER SHORTENING TIME**


2  
3 Plaintiff's application for an Order Shortening Time having come to the attention of the  
4 Court and good cause appearing therefrom,

5 IT IS HEREBY ORDERED as follows:

6 The plaintiff's request shall be and hereby is granted. The Court will accept and consider  
7 the plaintiff's motion for reconsideration and will do so on shortened time. A hearing on said  
8 motion is scheduled for April 5, 2012 at 2:00 p.m. in Department 7. Written opposition to the  
9 motion for reconsideration, if any, shall be filed and served by defendants on or before March 27,  
10 2012, 2012. A reply memorandum by plaintiff, if any, shall be filed and served on or before April  
11 2, 2012.

12 IT IS SO ORDERED.

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14 Dated: March 20, 2012

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17 MORRISON C. ENGLAND, JR.  
18 UNITED STATES DISTRICT JUDGE