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 NUVELO, INC., MICHAEL D. LEVY, TED W. LOVE,  
 and GARY S. TITUS

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 8 UNITED STATES DISTRICT COURT  
 9 NORTHERN DISTRICT OF CALIFORNIA  
 10 SAN FRANCISCO DIVISION

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 12 In re NUVELO, INC. SECURITIES  
 13 LITIGATION

Master File No. 07-CV-04056-VRW

**CLASS ACTION**

**STIPULATION AND ~~[PROPOSED]~~ ORDER  
 EXTENDING TIME FOR PLAINTIFFS TO  
 FILE THE AMENDED CONSOLIDATED  
 COMPLAINT ~~AND SETTING A BRIEFING  
 SCHEDULE FOR DEFENDANTS'  
 ANTICIPATED MOTION TO DISMISS~~**

Trial Date: Not yet set

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 20 **WHEREAS**, on December 4, 2008, the Court dismissed plaintiffs' Consolidated Complaint  
 21 with leave to amend for failing to link defendants' alleged misstatements and omissions with the  
 22 cause of plaintiffs loss, failing to sufficiently allege that defendants' statements were misleading,  
 23 and failing to demonstrate that defendants' statements were not shielded by the PSLRA's safe  
 24 harbor for forward-looking statements ("the Order");

25 **WHEREAS**, on December 12, 2008, pursuant to a stipulation by the parties, the Court  
 26 extended plaintiffs' time to file the Amended Consolidated Complaint to January 14, 2009;

27 **WHEREAS**, due to an injury to plaintiffs' counsel, plaintiffs request that the time to file the  
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1 Amended Consolidated Complaint be further extended to January 23, 2009;

2       **WHEREAS**, the parties have met and conferred and defendants do not object to extending  
3 plaintiffs' time to file the Amended Consolidated Complaint through and including January 23,  
4 2009;

5       **WHEREAS**, pursuant to the Federal Rule of Civil Procedure 15, defendants only have 10  
6 days after service to respond to an amended complaint;

7       **WHEREAS**, it will take longer than ten days to properly evaluate the Amended  
8 Consolidated Complaint to determine if it sufficiently addresses the issues raised in the Order and  
9 then to respond to the Amended Consolidated Complaint;

10       **WHEREAS**, defendants anticipate filing a motion to dismiss the Amended Consolidated  
11 Complaint;

12       **WHEREAS**, the parties have met and conferred and plaintiffs do not object to extending  
13 defendants' time to respond to the Amended Consolidated Complaint through and including  
14 March 24, 2009;

15       **WHEREAS**, the parties have met and conferred and agreed that if, as anticipated,  
16 defendants file a motion to dismiss, then lead plaintiffs' opposition should be filed on or before  
17 May 25, 2009 and defendants' reply brief should be filed on or before June 24, 2009;

18       **WHEREAS**, the purpose of the extension of time and briefing schedule is to allow the  
19 parties to thoroughly brief for the Court whether the Amended Consolidated Complaint addresses  
20 the multiple issues raised in the Order as well as any other issues that might be raised by the  
21 Amended Consolidated Complaint;

22       **WHEREAS**, this extension of time will not impact any other deadlines set by the Court.

23       **NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED**, by and between the parties  
24 hereto through their respective counsel of record, subject to the approval by the Court that:

- 25       1. Plaintiffs shall have through and including January 23, 2009, to file the Amended  
26 Consolidated Complaint;
- 27       2. Defendants shall have through and including March 24, 2009, to respond to the  
28 Amended Consolidated Complaint;

1 3. In the event that defendants file a motion to dismiss the Amended Consolidated  
2 Complaint, lead plaintiffs shall have through and including May 25, 2009 to file an  
3 opposition to defendants' motion to dismiss; and

4 4. Defendants shall have through and including June 24, 2009 to file a reply brief.

5 **IT IS SO STIPULATED.**

6 Dated: January 8, 2009

COOLEY GODWARD KRONISH LLP

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*/s/ Scott S. Devereaux*

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Scott S. Devereaux

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Attorneys for Defendants

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Dated: January 8, 2009

IZARD NOBEL LLP

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*/s/ Jeffrey S. Nobel*

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*Co-Lead Counsel for Plaintiffs*

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**ATTESTATION PURSUANT TO GENERAL ORDER 45**

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I, Scott S. Devereaux, attest that concurrence in the filing of this document has been  
24 obtained from each of the other signatories. I declare under penalty of perjury under the laws of  
25 the United States of America that the foregoing is true and correct. Executed this 8th day of  
26 December, 2008, at Palo Alto, California.

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*/s/ Scott S. Devereaux*

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Scott S. Devereaux

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~~PROPOSED~~ ORDER

Upon Stipulation of the parties and good cause appearing therefore, it is hereby ordered that:

1. Plaintiffs shall have through and including January 23, 2009, to file the Amended Consolidated Complaint;
2. Defendants shall have through and including March 24, 2009, to respond to the Amended Consolidated Complaint;
- ~~3. In the event that defendants file a motion to dismiss the Amended Consolidated Complaint, lead plaintiffs shall have through and including May 25, 2009 to file an opposition to defendants' motion to dismiss; and~~
- ~~4. Defendants shall have through and including June 24, 2009 to file a reply brief.~~

**IT IS SO ORDERED.**

Dated: January 9, 2009



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VAUGHN R. WALKER  
DISTRICT JUDGE

**CERTIFICATE OF SERVICE**  
**(FRCP 5)**

I am a citizen of the United States and a resident of the State of California, over the age of 18 years, and not a party to the within action. I am employed in Santa Clara County, State of California, in the office of a member of the bar of this Court at whose direction the service was made. My business address is Cooley Godward Kronish LLP, Five Palo Alto Square, 3000 El Camino Real, Palo Alto, CA 94306-2155. I served a

**STIPULATION AND [PROPOSED] ORDER EXTENDING TIME FOR PLAINTIFFS TO FILE THE AMENDED CONSOLIDATED COMPLAINT AND SETTING A BRIEFING SCHEDULE FOR DEFENDANTS’ ANTICIPATED MOTION TO DISMISS**

in the manner(s) indicated on the parties listed below:

- BY U.S. MAIL – CCP § 1013a(1)) I am personally and readily familiar with the business practice of Cooley Godward Kronish LLP for collection and processing of correspondence for mailing with the United States Postal Service, and I caused such envelope(s) with postage thereon fully prepaid to be placed in the United States Postal Service at Palo Alto, California.
- (BY FACSIMILE – CCP § 1013(e)) I am personally and readily familiar with the business practice of Cooley Godward Kronish LLP for collection and processing of document(s) to be transmitted by facsimile, and I caused such document(s) on this date to be transmitted by facsimile to the offices of addressee(s) at the numbers listed below.
- (BY OVERNIGHT MAIL – CCP § 1013(c)) I am personally and readily familiar with the business practice of Cooley Godward Kronish LLP for collection and processing of correspondence for overnight delivery, and I caused such document(s) described herein to be deposited for delivery to a facility regularly maintained by Federal Express for overnight delivery.

Mario Alba, Esq.  
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Nicolette Tropiano, Esq.  
Schiffirin Barroway Topaz & Kessler LLP  
280 King of Prussia Road  
Radnor, PA 19087

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on January 8, 2008, at Palo Alto, California.

/s/ Jocelyn McIntosh  
Jocelyn McIntosh