

1 COOLEY GODWARD KRONISH LLP
 SCOTT D. DEVEREAUX (146050) (devereauxsd@cooley.com)
 2 JEFFREY M. KABAN (235743) (jkaban@cooley.com)
 VALERIE CASTELO (247540) (vcastelo@cooley.com)
 3 Five Palo Alto Square
 3000 El Camino Real
 4 Palo Alto, CA 94306-2155
 Telephone: (650) 843-5000
 5 Facsimile: (650) 857-0663

6 Attorneys for Defendants
 NUVELO, INC., MICHAEL D. LEVY, TED W. LOVE,
 7 and GARY S. TITUS

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

13 In re NUVELO, INC. SECURITIES
 LITIGATION

Master File No. 07-CV-04056-VRW

CLASS ACTION

**STIPULATION AND ~~PROPOSED~~ ORDER
 SETTING BRIEFING SCHEDULE FOR
 OPPOSITION TO AND REPLY IN SUPPORT
 OF DEFENDANTS' MOTION TO DISMISS**

19
 20 **WHEREAS**, lead plaintiffs filed their Second Consolidated Complaint on January 23, 2009;
 21 **WHEREAS**, lead plaintiffs filed their Corrected Second Consolidated Amended Complaint
 22 (“SAC”) on February 17, 2009;
 23 **WHEREAS**, defendants Nuvelo, Inc., Michael D. Levy, Ted. W. Love and Gary S. Titus
 24 (collectively, “Defendants”) filed their Motion to Dismiss the SAC on March 24, 2009;
 25 **WHEREAS**, the hearing on Defendants’ Motion to Dismiss was noticed for June 25, 2009
 26 at 2:30 p.m., a date that was mutually convenient for all parties;

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

WHEREAS, the parties have met and conferred and agreed that lead plaintiffs’ opposition to Defendants’ Motion to Dismiss should be filed on or before May 13, 2009, and Defendants’ reply brief should be filed on or before June 8, 2009;

WHEREAS, the purpose of the briefing schedule is to allow the parties to thoroughly brief for the Court whether the SAC addresses the multiple issues raised in the Court’s Order of December 4, 2008 as well as any other issues raised by the SAC;

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

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

- 1. Lead plaintiffs shall have through and including May 13, 2009 to file an opposition to Defendants’ Motion to Dismiss; and
- 2. Defendants shall have through and including June 8, 2009 to file a reply brief.

IT IS SO STIPULATED.

Dated: March 30, 2009

COOLEY GODWARD KRONISH LLP

/s/ Scott D. Devereaux

Scott D. Devereaux

Attorneys for Defendants

Dated: March 30, 2009

BERGER & MONTAGUE P.C.

/s/ Carole A. Broderick

Carole A. Broderick

Co-Lead Counsel for Plaintiffs

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ATTESTATION PURSUANT TO GENERAL ORDER 45

I, Scott D. Devereaux, attest that concurrence in the filing of this Stipulation and [Proposed] Order Setting Briefing Schedule for Opposition to and Reply In Support Of Defendants’ Motion to Dismiss has been obtained from each of the other signatories. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this 30th day of March, 2009, at Palo Alto, California.

Scott D. Devereaux

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

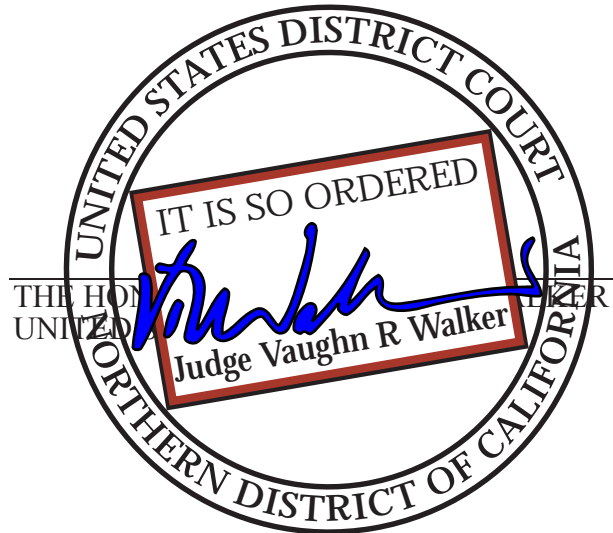
~~PROPOSED~~ ORDER

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

1. Lead plaintiffs shall have through and including May 13, 2009 to file an opposition to Defendants' Motion to Dismiss; and
2. Defendants shall have through and including June 8, 2009 to file a reply brief.

IT IS SO ORDERED.

Dated: March 31, 2009



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 SETTING BRIEFING SCHEDULE FOR OPPOSITION TO AND REPLY IN SUPPORT OF DEFENDANTS’ 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.
Coughlin Stoia Geller Rudman &
Robbins LLP
58 South Service Road
Suite 200
Melville, NY 11747

Nicolette Tropiano
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 March 30, 2009, at Palo Alto, California.

/s/ Jocelyn McIntosh
Jocelyn McIntosh