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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

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In re Bank of America Corp. Auction Rate  
Securities Marketing Litigation

MDL No. 09-2014

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**STIPULATION AND ~~PROPOSED~~  
SCHEDULING ORDER**

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This Document Relates to:  
*Bondar v. Bank of America Corp.*  
No. C 08-2599 (JSW)

AS MODIFIED HEREIN  
Hon. Jeffrey S. White

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Class Plaintiffs in *Bondar v. Bank of America Corp.*, No. C 08-2599 (JSW) and Defendants Bank of America Corporation, Banc of America Securities LLC, and Banc of America Investment Services, Inc. (collectively, "Defendants"), by and through their respective counsel of record, hereby stipulate as follows:

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**WHEREAS** Class Plaintiffs filed a Second Amended Class Action Complaint on May 12, 2009;

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**WHEREAS** by stipulated Order dated June 17, 2009, the Court entered the following schedule on Defendants' anticipated motion to dismiss:

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1) Defendants shall answer, move against or otherwise respond to the Second Amended Class Action Complaint within 14 days of the Court's decision on the Motion to Withdraw and Substitute Lead Plaintiff;

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2) Should Defendants file a motion to dismiss the Second Amended Class Action Complaint, the briefing schedule on such motion shall be as follows:

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a) Class Plaintiffs shall file any opposition to Defendants' motion to dismiss within 30 days of the filing of Defendants' motion; and

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b) Defendants shall file any reply in support of the motion to dismiss within 21 days of the filing of Plaintiffs' opposition.

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1           3) The hearing on the motion to dismiss, if the Court deems it necessary, remains  
2           on calendar for October 2, 2009 at 9 a.m.

3           **WHEREAS** on July 9, 2009, the Court issued a decision on the Motion to Withdraw  
4 and Substitute Lead Plaintiff, in which it (i) granted the Sitrin Group's motion to withdraw as  
5 Lead Plaintiff, (ii) denied the Hamm Group's motion to substitute as lead plaintiff without  
6 prejudice, (iii) allowed the Hamm Group to file a renewed motion to be appointed Lead  
7 Plaintiff, and (iv) permitted any other candidates who wish to be appointed Lead Counsel to file  
8 such motions;

9           **WHEREAS** the Hamm Group intends to promptly file a renewed motion to be  
10 appointed Lead Plaintiff;

11           **WHEREAS** the parties agree that in the interest of efficiency, the Hamm Group's  
12 renewed Lead Plaintiff motion should be decided before Defendants file their anticipated  
13 motion to dismiss the Second Amended Complaint, and that awaiting a ruling on that  
14 application is good cause to grant a modest extension on the motion to dismiss briefing  
15 schedule;

16           **WHEREAS** the parties agree, subject to this Court's approval, to the following  
17 schedule on Defendants' anticipated motion to dismiss:

- 18           1) Defendants shall answer, move against or otherwise respond to the Second  
19 Amended Class Action Complaint within 14 days of the Court's appointment of  
20 Lead Plaintiff and Lead Counsel, if any;
- 21           2) Should Defendants file a motion to dismiss the Second Amended Class Action  
22 Complaint, the briefing schedule on such motion shall be as follows:
- 23           a) Lead Plaintiffs shall file any opposition to Defendants' motion to dismiss  
24 within 30 days of the filing of Defendants' motion; and
- 25           b) Defendants shall file any reply in support of the motion to dismiss within 21  
26 days of the filing of Lead Plaintiffs' opposition.

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Dated: July 13, 2009

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~~PROPOSED~~ ORDER

Having reviewed the above stipulation, **IT IS HEREBY ORDERED** that:

- 1) Defendants shall answer, move against or otherwise respond to the Second Amended Class Action Complaint within 14 days of the appointment of Lead Plaintiff and Lead Counsel, if any;
- 2) Should Defendants file a motion to dismiss the Second Amended Class Action Complaint, the briefing schedule on such motion shall be as follows:
  - a) Lead Plaintiffs shall file any opposition to Defendants' motion to dismiss within 30 days of the filing of Defendants' motion; and
  - b) Defendants shall file any reply in support of the motion to dismiss within 21 days of the filing of Lead Plaintiffs' opposition.
3. The parties shall notice the motion for a hearing date twenty-one days after the date on which the reply brief would be due.

**IT IS SO ORDERED.**

DATED: July 15, 2009 \_\_\_\_\_

  
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THE HONORABLE JEFFREY S. WHITE  
UNITED STATES DISTRICT JUDGE