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WASHINGTON MUTUAL BANK

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

11 ACTUATE CORPORATION, a Delaware
 corporation,

12 Plaintiff,

13 vs.

14 WASHINGTON MUTUAL BANK, a
 15 Washington corporation,

16 Defendant.

Case No. CV 08-2918 SI

**STIPULATION TO EXTEND TIME FOR
 INITIAL CASE MANAGEMENT
 CONFERENCE AND MOTION;
 [PROPOSED] ORDER THEREON**

Judge: Hon. Susan Illston

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 Case No. CV 08-2918 SI
 STIPULATION TO EXTEND TIME FOR CMC
 AND MOTION; [PROPOSED] ORDER

STIPULATION

Pursuant to Local Rule 6-2(a), Defendant Washington Mutual Bank (“Washington Mutual”), and Plaintiff Actuate Corporation (“Actuate”), through their respective counsel, hereby submit this joint stipulation and proposed Order. The facts set forth below also are confirmed in the Declaration of Benjamin K. Riley, filed herewith.

WHEREAS, this Court has set the Initial Case Management Conference in this case for Friday, November 7, 2008, at 2 pm;

WHEREAS, Actuate has filed a Motion to Strike certain affirmative defenses in Washington Mutual’s Answer, and that motion is set to be heard on Friday, November 7, 2008, at 9 am;

WHEREAS, on or about Thursday, September 25, 2008, the Office of Thrift Supervision appointed the Federal Deposit Insurance Corporation (“FDIC”) as the Receiver for Washington Mutual. On the same day, the FDIC closed Washington Mutual and upon closure JPMorgan Chase & Co. (“JPMorgan Chase”) acquired certain banking assets and liabilities of Washington Mutual; and

WHEREAS, the effect of the referenced transactions on this litigation is not yet clear, but that effect is expected to be understood in the next several weeks.

ACCORDINGLY, the parties wish to continue the time set for both the initial Case Management Conference and the pending Motion to Strike by two weeks, in order to allow them to better understand the effect on this litigation of the FDIC and JPMorgan Chase transactions. The parties therefore request that both the initial Case Management Conference and Actuate’s Motion to Strike, be continued until **Friday, November 21**, or some other date and time thereafter convenient for the Court.

IT IS SO STIPULATED.

Dated: October 10, 2008

BERGESON, LLP

By: _____
Hway-Ling Hsu

Attorneys for Plaintiff
ACTUATE CORPORATION

1
2 Dated: October 10, 2008

HOWREY LLP

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5 By: _____
Benjamin K. Riley

6 Attorneys for Defendant
7 WASHINGTON MUTUAL BANK

8
9 **[PROPOSED] ORDER**

10 Pursuant to the stipulation of counsel, and good cause shown therefor, it is hereby ordered that
11 the initial Case Management Conference in this matter shall be held on November 21, 2008, at 2 p.m.
12 and that Actuate's Motion to Strike Affirmative Defenses will be heard on November 21, 2008, at
13 9 a.m.

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16 Hon. Susan Illston
United States District Judge

