

1 ANDREW A. AUGUST (SBN 112851)
 (aaugust@pinnaclelawgroup.com)
 2 KEVIN F. ROONEY (SBN 184096)
 (krooney@pinnaclelawgroup.com)
 3 PINNACLE LAW GROUP, LLP
 425 California Street, Suite 1800
 4 San Francisco, California 94104
 Telephone: (415) 394-5700
 5 Facsimile: (415) 394-5003

6 JAMES C. STURDEVANT (SBN 94551)
 (jsturdevant@sturdevantlaw.com)
 7 WHITNEY HUSTON (SBN 234863)
 (whuston@sturdevantlaw.com)
 8 THE STURDEVANT LAW FIRM
 9 A Professional Corporation
 354 Pine Street, Fourth Floor
 10 San Francisco, CA 94104
 Telephone: (415) 477-2410
 11 Facsimile: (415) 477-2420

12 Attorneys for Plaintiffs Matthew C. Kilgore,
 13 William Bruce Fuller and Kevin Wilhelmy

14 **UNITED STATES DISTRICT COURT**
 15 **NORTHERN DISTRICT OF CALIFORNIA**
 16 **SAN FRANCISCO DIVISION**

17
 18 MATTHEW C. KILGORE, *et al.*,

19 Plaintiffs,

20 vs.

21 KEYBANK, NATIONAL ASSOCIATION,
 22 *et al.* ,

23 Defendants.

CASE NO. 08-cv-02958 TEH

**STIPULATION AND ~~[PROPOSED]~~ ORDER
 TO CONTINUE HEARING ON
 DEFENDANTS' MOTION TO DISMISS
 PLAINTIFFS' THIRD AMENDED
 COMPLAINT**

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 26 WHEREAS, the hearing on Defendants' Motion to Dismiss Plaintiff's Third
 27 Amended Complaint is currently set for March 1, 2010;
 28

1 WHEREAS, Plaintiffs have reached a tentative settlement with two previous
2 defendants in this action (Student Loan Xpress, Inc. (“SLX”) and American Education Services
3 (“AES”));

4 WHEREAS, Plaintiffs’ settlement with SLX and AES has been preliminarily
5 approved by the Federal District Court in the Middle District of Florida in *Holman v. Student*
6 *Loan Xpress, Inc.* 8:08-cv-00305-SDM-MAP (M.D. Fla.);

7 WHEREAS, the Final Fairness Hearing in the *Holman* action is scheduled for
8 March 22, 2010;

9 WHEREAS, this is the first request for a continuance of the hearing date on
10 Defendants’ Motion to Dismiss Plaintiffs’ Third Amended Complaint (although this Court did
11 grant a continuance of the hearing on Defendants’ Motion to Dismiss Plaintiffs’ Second Amended
12 Complaint in order to allow Plaintiffs leave to file a Third Amended Complaint);

13 WHEREAS, to accommodate Plaintiffs’ scheduling concerns;

14 NOW, THEREFORE, IT IS HEREBY STIPULATED by and between Plaintiffs
15 and Defendants, through their respective counsel of record, that the hearing date on Defendants’
16 Motion to Dismiss shall be continued from March 1, 2010 to March 29, 2010 and the current
17 briefing schedule shall be maintained.
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19 DATED: January 27, 2010

PINNACLE LAW GROUP LLP

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23 By: /s/ Kevin F. Rooney
Kevin F. Rooney, Attorneys for Plaintiff

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DATED:

NIXON PEABODY LLP

By: /s/ W. Scott O'Connell
W. Scott O'Connell
Attorneys for Defendants

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ORDER

Based on the foregoing stipulation of counsel and good cause appearing therefore, it is HEREBY ORDERED the hearing date on Defendants' Motion to Dismiss shall be continued from March 1, 2010 to March 29, 2010 and the current briefing schedule shall be maintained.

PURSUANT TO STIPULATION OF COUNSEL, IT IS SO ORDERED.

Dated: 01/29, 2010

