

E-Filed 6/25/10

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7 Attorneys for Defendants
 8 CITY AND COUNTY OF SAN FRANCISCO,
 9 CALVIN CHOW AND RAYMOND LEE

11 UNITED STATES DISTRICT COURT
 12
 13 NORTHERN DISTRICT OF CALIFORNIA

14 SHARON S. HENRY,

15 Plaintiffs,

16 vs.

17 BANK OF AMERICA CORPORATION,
 NANCY MENDOZA, CITY & COUNTY OF
 18 SAN FRANCISCO, CALVIN CHOW,
 RAYMOND LEE, and DOE ONE through
 19 DOE TEN, inclusive,

20 Defendants.

Case No. 09-CV-0628 RS

**STIPULATION AND [~~PROPOSED~~] ORDER
 SETTING CASE MANAGEMENT SCHEDULE
 AS MODIFIED BY THE COURT**

Case Filed: February 11, 2009
 Trial Date: Not Set

1 On June 10, 2010, the Court ordered the parties to meet and confer and to submit a proposed
2 Case Management Order. As mentioned in the parties' prior Joint Case Management Conference
3 Statement (Doc. No. 93, filed April 4, 2010), Judge Breyer stayed *Monell* discovery in this action until
4 there is a determination of whether or not the individual Officer defendants committed a constitutional
5 violation. Accordingly, the parties have agreed on a schedule that allows for discovery, summary
6 judgment and trial on the underlying constitutional claims and state tort claims against the City
7 defendants, as well as the negligence claim against the Bank, first.¹ *Monell* discovery and trial would
8 follow only if necessary.²

9 This schedule also partially accommodates the anticipated maternity leave of the City's
10 counsel, Ms. Bliss, from mid-December 2010 through May 14, 2011, by setting the dispositive motion
11 hearing before her leave, and the discovery cut-off, pretrial briefing, pretrial conference and the trial
12 date for after her return from leave. Another attorney from the office will cover the mediation and
13 expert discovery in her absence in order to keep the case moving. The gap between the discovery cut-
14 off and the pretrial filings also accommodates Plaintiff's counsel's July 2011 trial schedule.

15 Accordingly, the parties' proposed schedule is as follows:

16	Dispositive Motion Hearing Date:	December 9, 2010
17	Mediation Deadline:	February 19, 2011
18	Expert Witness designation and reports (per Rule 26(a)(2)):	
19	Initial:	April 21, 2011
20	Rebuttal:	May 12, 2011
21	Discovery cut-off (fact and expert, non- <i>Monell</i>):	June 9, 2011
22	Pretrial filings due (pursuant to the Court's standing order):	August 15, 2011

23
24 ¹ See, e.g., *Quintanilla v. City of Downey*, 84 F.3d 353, 356 (9th Cir. 1996) ("The district court,
25 under Fed. R. Civ. P. 42(b), in the interest not only of convenience and judicial economy but also the
26 avoidance of potential prejudice and confusion, bifurcated the trial of the individual police officers
27 from the Chief and city."); *Wilkins v. City of Oakland*, 2006 WL 305972, *1-2 (N.D. Cal. 2006)
28 (bifurcating *Monell* for purposes of trial).

² In the event the Court (on summary judgment) or the jury (at trial) holds that the underlying
officers did not violate Plaintiff's constitutional rights, the *Monell* claims would also fail without the
need for further discovery or proceedings against the City defendants. *Long v. City and County of
Honolulu*, 511 F.3d 901, 907 (9th Cir. 2007).

1 Pretrial Conference:

August 25, 2011 at 10:00 a.m.

2 Trial date:

September 5, 2011 at 9:00 a.m.

3 SO STIPULATED:

4 Dated: June 25, 2010

SIEGEL & YEE

6 By: s/Jose Luis Fuentes
JOSE LUIS FUENTES

8 Attorneys for Plaintiff SHARON HENRY

9 Pursuant to General Order 45, §X.B., the filer of this
10 document attests that she has received the concurrence of
this signatory to file this document.

11 Dated: June 25, 2010

SEVERSON & WERSON

14 By: s/Andrew S. Elliot
ANDREW S. ELLIOT

15 Attorneys for Defendants BANK OF AMERICA
16 CORPORATION AND NANCY MENDOZA

17 Pursuant to General Order 45, §X.B., the filer of this
18 document attests that she has received the concurrence of
this signatory to file this document.

19 Dated: June 25, 2010

20 DENNIS J. HERRERA
City Attorney
21 JOANNE HOEPER
Chief Trial Deputy
22 KIMBERLY A. BLISS
Deputy City Attorneys

24 By: /s/ Kimberly A. Bliss
KIMBERLY A. BLISS

25 Attorneys for Defendants CITY AND COUNTY OF
26 SAN FRANCISCO, CALVIN CHOW AND
27 RAYMOND LEE

ORDER

Pursuant to the Stipulation above, and for good cause shown, the Court sets the following Case Management Schedule:

Dispositive Motion Hearing Date: December 9, 2010

Mediation Deadline: February 19, 2011

Expert Witness designation and reports (per Rule 26(a)(2)):

Initial: April 21, 2011

Rebuttal: May 12, 2011

Discovery cut-off (fact and expert, non-Monell): June 9, 2011

Pretrial filings due (pursuant to the Court's standing order): August 15, 2011

Pretrial Conference: August 25, 2011 at 10:00 a.m.

Trial date: September ~~5~~⁶, 2011 at 9:00 a.m.

DATE: 6/25/10

HONORABLE RICHARD SEEBORG
UNITED STATES DISTRICT JUDGE