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 18 U.S. BANCORP and U.S. BANK NATIONAL ASSOCIATION

19
 20 UNITED STATES DISTRICT COURT
 21 NORTHERN DISTRICT OF CALIFORNIA

22
 23 GEORGE T. BURKE, on behalf of himself and all
 others similarly situated,

24 Plaintiff,

25 v.

26 U.S. BANCORP, U.S. BANK N.A., and DOES 1-
 27 10, inclusive,

28 Defendants.

Case No. 09-CV-1579 JSW

CLASS ACTION

**STIPULATION AND ~~PROPOSED~~
 ORDER FOR EXTENSION OF TIME
 TO RESPOND TO FIRST AMENDED
 COMPLAINT AND CONTINUE
 INITIAL CASE MANAGEMENT
 CONFERENCE AND RELATED
 DEADLINES**

STIP. TO EXTEND TIME TO RESPOND TO
 FAC AND CONTINUE INITIAL CMC

Case No. 09-CV-1579 JSW

1 Pursuant to Local Rule 6-1(a) and Federal Rule of Civil Procedure 12(a),
2 Plaintiff George T. Burke (“Plaintiff”) and Defendants U.S. Bancorp and U.S.
3 Bank National Association (“Defendants”), by and through their respective
4 attorneys, hereby stipulate and agree as follows:

5 WHEREAS, on April 10, 2009, Defendants removed this case from
6 California State Superior Court;

7 WHEREAS, the parties have since engaged in mutual discussion and an
8 informal exchange of information regarding the conduct at issue in this litigation;

9 WHEREAS, as a result of such discussions Plaintiff and Defendants agreed
10 that Plaintiff’s First Amended Complaint may not accurately allege certain facts
11 and U.S. Bank’s policies and procedures;

12 WHEREAS, as a further result of such discussions the parties agreed to an
13 extension of Defendants’ time to file a responsive pleading, until June 17, 2009,
14 while the parties determined how best to proceed;

15 WHEREAS, Plaintiff decided that under the circumstances, amendment of
16 the First Amended Complaint would be appropriate;

17 WHEREAS, late in the process of preparing a second amended complaint,
18 Plaintiff discovered that another putative class action, commenced after this action,
19 existed in the Central District of California regarding substantially the same subject
20 matter as the instant litigation, specifically the case of *Lowe v. U.S. Bank, N.A.*,
21 case no. SACV 09-0456 AG;

22 WHEREAS, at the time of discovery of the *Lowe* case, counsel for
23 Defendants were in the process of preparing notices of related cases;

24 WHEREAS, counsel for Plaintiff and counsel for Lowe have agreed to
25 prepare a consolidated amended complaint before this Court, the court before
26 which the first-filed action is pending, in an effort to avoid duplicative litigation
27 and conserve judicial resources;

1 WHEREAS, as a result of the anticipated consolidated amended complaint,
2 it will be necessary for Plaintiff to make additional and previously unanticipated
3 amendments to Plaintiff's First Amended Complaint;

4 WHEREAS, Plaintiff and Defendants are hopeful that a stipulation can be
5 reached regarding the filing of a Second Amended Complaint. The parties
6 acknowledge that Defendants will require time to review the proposed Second
7 Amended Complaint when it is available in advance of any stipulation;

8 WHEREAS, in light of the foregoing, Plaintiff has requested an additional
9 two week extension to allow Plaintiff's counsel and counsel in *Lowe* adequate time
10 to coordinate the two cases and hopefully reach a stipulation with Defendants
11 regarding filing a Second Amended Complaint;

12 WHEREAS, the Initial Case Management Conference in this matter is
13 currently scheduled for Friday, July 31, 2009 at 1:30 p.m.;

14 WHEREAS, the Parties' Rule 26(f) Report and Joint Case Management
15 Statement are currently due July 24, 2009, 7 days prior to the Initial Case
16 Management Conference;

17 WHEREAS, the Parties are currently required to file ADR Certifications and
18 a Stipulation to ADR Process or Notice of Need for ADR Phone Conference by
19 July 10, 2009, 21 days prior to the Initial Case Management Conference;

20 IT IS HEREBY STIPULATED AND AGREED pursuant to Local Rule 6-
21 1(a), and Federal Rule of Civil Procedure 12(a), by and between Plaintiff George
22 Burke and Defendants U.S. Bancorp and U.S. Bank National Association, through
23 their respective attorneys, that the time by which defendants may plead or
24 otherwise respond to the First Amended Complaint shall be extended to and
25 include **Wednesday, July 1, 2009**.

26 IT IS FURTHER STIPULATED AND AGREED pursuant to Northern
27 District Local Rules 6-2(a), 7-12, and 16-2(e), that the Initial Case Management
28 Conference currently scheduled for **Friday, July 31, 2009**, shall be continued to

1 **Friday, September 4, 2009** or any date thereafter at the Court’s convenience.
2 Additionally, in accordance with FRCP 26(f) and Local Rule 16-9(a), the Parties
3 Rule 26(f) Report and Joint Case Management Conference Statement will be due
4 seven (7) days prior to the rescheduled Initial Case Management Conference. The
5 ADR Certifications and a Stipulation to ADR Process or Notice of Need for ADR
6 Phone Conference will be due twenty-one (21) days prior to the rescheduled Initial
7 Case Management Conference.

8
9 Dated: June 15, 2009

JEFFREY F. KELLER
CAREY G. BEEN
KELLER GROVER LLP

12 By: /s/ Carey G. Been
13 Carey G. Been

14 Attorneys for Plaintiff
15 GEORGE T. BURKE

16 Dated: June 15, 2009


JAMES R. MCGUIRE
SYLVIA RIVERA
MORRISON & FOERSTER LLP

20 By: /s/ Sylvia Rivera
21 Sylvia Rivera

22 Attorneys for Defendants
23 U.S. BANCORP and U.S. BANK
24 NATIONAL ASSOCIATION

25 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

26 Dated: June 18, 2009

27 By: 
28 Judge Jeffrey S. White
United States District Court Judge