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

18  
 19 **UNITED STATES DISTRICT COURT**  
 20 **NORTHERN DISTRICT OF CALIFORNIA**

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

22 Plaintiff,

23 v.

24 U.S. BANCORP, U.S. BANK N.A., and DOES 1-  
 25 10, inclusive,

26 Defendants.

Case No. 09-CV-1579 JSW

CLASS ACTION

**STIPULATION TO AMEND  
 COMPLAINT AND ~~[PROPOSED]~~  
 ORDER**

27  
 28 STIPULATION TO AMEND  
 COMPLAINT

Case No. 09-CV-1579 JSW

1 Plaintiff George Burke (“Plaintiff”) and defendants U.S. Bancorp and U.S. Bank National  
2 Association (“Defendants”), through their respective attorneys, hereby stipulate and agree as  
3 follows:

4 WHEREAS, Plaintiff filed his complaint in this matter on February 6, 2009;

5 WHEREAS, Plaintiff filed the First Amended Complaint in this matter on March 10,  
6 2009;

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

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

11 WHEREAS, as a result of such discussions Plaintiff and Defendants agreed that  
12 Plaintiff’s First Amended Complaint may not accurately allege certain facts and Defendants’  
13 policies and procedures;

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

16 WHEREAS, in the process of preparing a second amended complaint, Plaintiff  
17 discovered that another putative class action, commenced after this action, existed in the Central  
18 District of California regarding substantially the same subject matter as the instant litigation,  
19 specifically the case of *Lowe, et al. v. U.S. Bank, N.A.*, case number SACV 09-0456 AG (the  
20 “*Lowe Action*”);

21 WHEREAS, counsel for Plaintiff and counsel for the plaintiffs in the *Lowe Action* agreed  
22 to prepare a combined, amended complaint before this Court, the court before which the first-  
23 filed action is pending, in an effort to avoid duplicative litigation and conserve judicial resources;

24 WHEREAS, Defendants have consented to Plaintiff filing the Second Amended  
25 Complaint, which, among other things, combines Plaintiff’s complaint with the complaint of the  
26 plaintiffs in the *Lowe Action*: Robert Lowe, Lori Aldana, Shane Parkins, and Kara Parkins; and  
27  
28

1 WHEREAS, on June 15, 2009, the *Lowe* Action was voluntarily dismissed without  
2 prejudice to the plaintiffs' right to re-file, in anticipation of the filing of the Second Amended  
3 Complaint before this Court;

4 NOW THEREFORE, the parties hereby agree and stipulate to the filing of the Second  
5 Amended Complaint attached hereto as Exhibit 1 and the addition of Robert Lowe, Lori Aldana  
6 and Shane and Kara Parkins as plaintiffs to the instant litigation. The parties further stipulate  
7 that should the Court issue an order approving the filing of the Second Amended Complaint, then  
8 Defendants should have fifteen (15) days from the date of such order to respond to the Second  
9 Amended Complaint.

10 Dated: July 13, 2009

JEFFREY F. KELLER  
KATHLEEN R. SCANLAN  
CAREY G. BEEN  
KELLER GROVER LLP

14 By:                                 /s/ Kathleen R. Scanlan  
Kathleen R. Scanlan

Attorneys for Plaintiff  
GEORGE T. BURKE

17 Dated: July 13, 2009

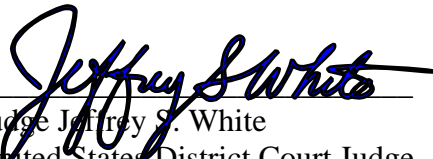
JAMES R. MCGUIRE  
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MORRISON & FOERSTER LLP

20 By:                                 /s/Sylvia Rivera  
Sylvia Rivera

Attorneys for Defendants  
U.S. BANCORP and U.S. BANK  
NATIONAL ASSOCIATION

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

26 Dated:     July 14, 2009    

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