UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

JOHN T. MOONEY,

Plaintiff,

vs.

GOLDMAN, SACHS AND CO.; THE GOLDMAN SACHS GROUP, INC.; CHRIS LALLI, an individual and employee of Goldman, Sachs and Co. and/or The Goldman Sachs Group, Inc.; and DOES 1 through 50, inclusive,

Defendants.

CASE NO. 3:09-CV-02653-MMC

~~[PROPOSED]~~ **ORDER GRANTING DEFENDANTS' MOTION TO STRIKE PLAINTIFF JOHN T. MOONEY'S UNTIMELY DEMAND FOR JURY TRIAL**

Fed. R. Civ. P. 38(d) & 39(a)(2)

Date: December 4, 2009
Time: 9:00 a.m.
Judge: Hon. Maxine M. Chesney
Courtroom: 7, 19th Floor

Defendants' Motion to Strike Plaintiff John T. Mooney's Untimely Demand for Jury Trial in the above-captioned action came on for hearing before the Court on December 4, 2009, the Honorable Maxine M. Chesney presiding. Defendants Goldman, Sachs & Co., The Goldman Sachs Group, Inc., and Christopher Lalli (collectively "Defendants") appeared and argued through their counsel, ~~Katherine C. Huibonhoa~~ M. Kirby C. Wilcox, Esq. of Paul, Hastings, Janofsky and Walker LLP. Plaintiff John T. Mooney ("Plaintiff") appeared and argued through his counsel, Jacqueline C. Fagerlin, Esq. of the Cardoza Law Offices.

The Court, having read and considered all of the papers submitted in support of the motion and plaintiff's statement of non-opposition thereto, ~~and in opposition thereto, the oral arguments of counsel~~ and the entire record in this action, and the matter having been duly heard,

IT IS HEREBY ORDERED that:

Defendants' Motion is GRANTED, and Plaintiff's untimely demand for a jury trial on file herein is stricken, on the ground that Plaintiff failed to serve and file his jury demand within ten (10) days after being served with notice of removal as required by Federal Rule of Civil Procedure 81(c)(3)(B)(ii). Plaintiff therefore has waived his right to trial by jury. *See* Fed. R. Civ. Proc. 38(d) ("A party *waives* a jury trial unless its demand is properly served and filed.") (emphasis added).

IT IS SO ORDERED.

Dated: December 8, 2009

The Honorable Maxine M. Chesney,
United States District Court Judge

Respectfully Submitted:

PAUL, HASTINGS, JANOFSKY & WALKER LLP

By: */s Katherine C. Huibonhoa*
KATHERINE C. HUIBONHOA
Attorneys for Defendants
GOLDMAN, SACHS & CO., THE GOLDMAN SACHS GROUP, INC., and CHRISTOPHER LALLI