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15 Attorneys for Defendants FIA CARD SERVICES, N.A.
and BANK OF AMERICA CORPORATION

16
17 UNITED STATES DISTRICT COURT
18 NORTHERN DISTRICT OF CALIFORNIA

19 DANA MAY CAPSERSON
20 Plaintiff,
21 vs.
22 BANK OF AMERICA
CORPORATION; FIA CARD
23 SERVICES, N.A.; and DOES 1 through
30, inclusive,
24 Defendants.
25
26

CASE NO. 3:11-cv-01425-TEH

**STIPULATION AND [PROPOSED]
ORDER TO ADJOURN
SETTLEMENT CONFERENCE**

27
28 Plaintiff Dana May Casperson ("Plaintiff") by and through her counsel, The

1 Law Office of James J. Bergmann, and Defendants Bank of America Corporation
2 and FIA Card Services, N.A. ("Defendants"), by and through their counsel,
3 McGuireWoods LLP, hereby stipulate, pursuant to Civil Local Rule 6-2, for an
4 order from Magistrate Judge Joseph C. Spero to adjourn the Settlement Conference
5 now scheduled for October 5, 2011. The following is a brief chronology and the
6 reasons supporting this joint request:

7 1. On July 12, 2011, the Court entered a Stipulation and Order Selecting
8 ADR Process and setting mediation for 90 days from the date thereof, thus setting a
9 deadline of October 11, 2011. (Docket Entry # 19)

10 2. On August 8, 2011, the Court held an Initial Case Management
11 Conference. (Docket Entry # 34)

12 3. On August 8, 2011, the case was referred to Magistrate Judge Spero for
13 Settlement. (No docket entry)

14 4. On August 9, 2011, the Court entered the Order for Pretrial Preparation,
15 setting forth in Paragraph 8 thereof a provision for a settlement conference, the
16 parties being ordered to "arrange for a mandatory settlement conference before
17 Magistrate Judge Spero of this Court. This conference shall be scheduled to take
18 place no later than 5 calendar days before the pretrial conference" which pretrial
19 conference is, by the terms of the same order, scheduled for March 12, 2012.
20 (Docket Entry #35)

21 5. On August 9, 2011, a Notice of Settlement Conference and Settlement
22 Conference Order was entered setting the case for a settlement conference with
23 Judge Spero on October 5, 2011. (Docket Entry # 36)

24 6. Throughout this time, the parties have undertaken steps to obtain a refund
25 for the Plaintiff in connection with her credit card claim. As of this date the process
26 has experienced a delay through no fault of either party. The process through which
27
28

1 a refund is being attempted may take up to 8 weeks to resolve through the credit
2 card association rules and procedures.

3 7. On September 28, 2011, court-appointed mediator Marc Fong reached
4 out to the parties to discuss mediation. All parties and Mr. Fong agree that the
5 parties would benefit from an adjournment of the Settlement Conference and
6 postponement of mediation pending the outcome of the attempted refund through
7 the credit card association rules and procedures. No mediation session has been
8 scheduled.

9 8. On September 28, 2011, the parties jointly filed a Stipulation to
10 Adjourn Settlement Conference and Extend Deadline to Complete Mediation,
11 requesting an order from presiding Judge Henderson on those matters.

12 9. On September 29, 2011, Judge Henderson entered an order extending
13 the parties' deadline to complete mediation to November 18, 2011; however, Judge
14 Henderson ordered the parties to direct their request for adjournment of the October
15 5, 2011 Settlement Conference to Judge Spero, "whose calendar the request
16 impacts." (See Docket Entry #50, Judge Henderson's September 29, 2011 Order, at
17 p. 1, lines 22-24).

18 10. To date, there have been no previous requests to amend the date of the
19 Settlement Conference (other than the parties' September 28, 2011 request to Judge
20 Henderson).

21 11. Modification of the dates for Mediation and Settlement Conference will
22 have no effect on the deadlines set forth in the Order for Pretrial Preparation.

23 Wherefore, the parties respectfully request that Judge Spero adjourn the
24 Settlement Conference scheduled for October 5, 2011, until such time as the parties
25 believe it necessary, but not later than 5 days before the Pretrial Conference
26 scheduled for March 12, 2012, in accordance with the Order for Pretrial Preparation.

27 Respectfully submitted,
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