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- and -

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13 **UNITED STATES DISTRICT COURT**
 14 **NORTHERN DISTRICT OF CALIFORNIA**
 15 **SAN FRANCISCO DIVISION**

15 PATRICIA MCNEARY-CALLOWAY,
 16 individually and on behalf of all others similarly
 17 situated,

Plaintiff,

v.

20 JPMORGAN CHASE BANK, N.A. and CHASE
 21 BANK USA, N.A.,

Defendants.

Case No.: 11-cv-03058-JCS

**JOINT STIPULATION PROVIDING THAT
 DOCUMENTS PRODUCED IN MEDIATION
 SHALL BE DEEMED PRODUCED IN THIS
 ACTION AND SUBJECT TO THE
 PROTECTIONS OF THE PARTIES'
 STIPULATED PROTECTIVE ORDER**

Hearing Date: N/A
 Judge: Magistrate Judge Joseph C. Spero

1 Plaintiff Patricia McNeary-Calloway (“Plaintiff”) and Defendants JPMorgan Chase Bank, N.A.
2 and Chase Bank USA, N.A. (collectively, “Defendants”) respectfully submit the following Joint
3 Stipulation Providing That the Documents Produced in Connection with the Mediation Commenced in or
4 about June 2012 and Concluded in or about March 2013 Shall be Deemed Produced in this Action and
5 Subject to the Parties’ Stipulated Protective Order.

6 WHEREAS, following this Court’s March 26, 2012 decision denying in part and granting in part
7 Defendants’ Motion to Dismiss (ECF No. 62), the Parties agreed to participate in mediation in order to
8 explore resolving the action through settlement;

9 WHEREAS, upon stipulation of the Parties, the Court entered an Order on May 3, 2012 (ECF No.
10 65) staying this action during the mediation process (ECF No. 65);

11 WHEREAS, the Parties commenced the mediation process with the assistance of a JAMS
12 mediator in or about June 2012;

13 WHEREAS, in addition to the Parties herein, the parties in the related action captioned *Leger et*
14 *al. v. JPMorgan Chase et al.*, Case No. C 12-03632 JCS (“*Leger*”) participated in the mediation along
15 with Plaintiffs’ counsel from similar cases against Chase Defendants around the country who agreed to
16 work cooperatively under the leadership of Co-Lead Interim Class Counsel appointed by the Court in this
17 action;

18 WHEREAS, the mediation proceeded over multiple full day in person mediation sessions between
19 early July 2012 and mid-February 2013, as well as, through many follow up conversations with the
20 mediator and amongst the parties *via* telephone and e-mail;

21 WHEREAS, the mediation process additionally involved the production of voluminous documents
22 and exchange of information subject to a Stipulated Protective Order for Mediation Purposes Only entered
23 by all participants in the mediation;
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1 WHEREAS, despite the Parties' good faith efforts, substantial work and analysis and exchange of
2 information, they were unable to agree upon terms for settlement and notified the Court of this and of the
3 need to resume active litigation;

4 WHEREAS, on March 14, 2013, the Plaintiffs filed a Motion to Consolidate this action with the
5 related *Leger* action (ECF No. 81) and sought leave to file a consolidated amended complaint
6 encompassing the claims asserted in *Leger* and this action as well as including additional parties and their
7 similar claims currently pending in certain specified actions pending in other jurisdictions;

8 WHEREAS, the Parties anticipate that discovery in this case will include personal financial
9 information and corporate financial, proprietary, or commercially-sensitive information or data that is not
10 known, or has not generally been made available, to the public and so, are in the process of finalizing a
11 Stipulated Protective Order to be filed with this Court;

12 WHEREAS, in order to promote efficiency, avoid duplication and prevent waste, and to benefit
13 from the significant exchange of information and analysis that occurred during the mediation process, the
14 Parties desire to have the documents and information produced and exchanged in the course of the
15 mediation deemed produced in discovery in this action, designated as "Confidential" subject to the terms
16 of the Parties' Stipulated Protective Order and accessible for use in this action in accordance with the
17 terms of their Stipulated Protective Order and the Rules of this Court once that order is filed with the
18 Court;

19
20 **IT IS HEREBY STIPULATED AS FOLLOWS:**

21 1. Documents and information produced by the Parties as part of the aforementioned
22 mediation, and subject to their Stipulated Protective Order for Mediation Purposes, shall be deemed
23 produced for purposes of discovery in this action upon filing of a Stipulated Protective Order on this
24 docket;

25 2. Documents and information produced by the Parties in mediation and deemed produced in
26 discovery pursuant to this Stipulation shall be treated as if designated "Confidential" under the terms of
27

1 the Parties' Stipulated Protective Order and shall be accessible for use in this action in accordance with
2 the terms of the Stipulated Protective Order and the Rules of this Court.

3 **IT IS SO STIPULATED.**

4 Respectfully submitted,

5 Dated: April 11, 2013

6 /s/ Edward W. Ciolko

7 Edward W. Ciolko (*pro hac vice*)

8 Terence S. Ziegler (*pro hac vice*)

9 Peter A. Muhic (*pro hac vice*)

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Dated: April 11, 2013

BINGHAM MCCUTCHEN LLP

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Dated: 4/12/13

