

BINGHAM MCCUTCHEN LLP  
 David M. Balabanian (SBN 37368)  
 david.balabanian@bingham.com  
 Frank Busch (SBN 258288)  
 Tarek Sorensen (SBN 261528)  
 Three Embarcadero Center  
 San Francisco, CA 94111-4067  
 Telephone: 415.393.2000  
 Facsimile: 415.393.2286

PAUL, WEISS, RIFKIND, WHARTON &  
 GARRISON LLP

Charles E. Davidow (*Pro Hac Vice*)  
 cdavidow@paulweiss.com  
 Robyn F. Tarnofsky (*Pro Hac Vice*)  
 James J. Brennan (*Pro Hac Vice*)  
 Matthew J. Moses (*Pro Hac Vice*)  
 1285 Avenue of the Americas  
 New York, NY 10019-6064  
 Tel: (212) 373-3000  
 Fax: (212) 757-3990

Attorneys for All Defendants

UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA

INTERNATIONAL UNION OF  
 OPERATING ENGINEERS LOCAL 39  
 STATIONARY ENGINEERS,  
 individually and on behalf of all others  
 similarly situated,

Plaintiff,

v.

THE BANK OF NEW YORK MELLON  
 CORPORATION, THE BANK OF NEW  
 YORK MELLON, THE BANK OF NEW  
 YORK COMPANY, INC., THE BANK  
 OF NEW YORK, and THE BANK OF  
 NEW YORK MELLON TRUST  
 COMPANY, NATIONAL  
 ASSOCIATION,

Defendants.

No. 3:11-CV-03620-WHA

STIPULATION AND ~~PROPOSED~~ ORDER  
 FOR RELIEF FROM CASE MANAGEMENT  
 SCHEDULE

Judge: Hon. William H. Alsup

1 WHEREAS, Plaintiff filed a Class Action Complaint against Defendants on July 22, 2011  
2 (Dkt. No. 1);

3 WHEREAS, on July 22, 2011, this action was assigned to the Alternative Dispute  
4 Resolution (ADR) Multi-Option Program and the parties were ordered to file an ADR  
5 certification and either a stipulation to ADR process or notice of need for ADR phone conference  
6 by December 29, 2011; file a Rule 26(f) report, complete initial disclosures or state objections in  
7 the Rule 26(f) report, and file a case management statement by January 12, 2012; and to attend an  
8 initial case management conference on January 19, 2012 (Dkt. No. 2);

9 WHEREAS, on September 21, 2011, the clerk noticed the Initial Case Management  
10 Conference for November 17, 2011 and directed the parties to submit a joint case management  
11 conference statement seven days prior, but noted that all other deadlines in the July 22, 2011  
12 ADR scheduling order remain in effect (Dkt. No. 14);

13 WHEREAS, on October 7, 2011, Defendants filed a Notice of Motion and Motion to  
14 Dismiss the Class Action Complaint with a hearing date of November 17, 2011, or as soon  
15 thereafter as may be heard (Dkt. Entry 28);

16 WHEREAS, on October 18, 2011, the court approved the parties' stipulation moving the  
17 hearing date for Defendants' Motion to Dismiss from November 17, 2011 to December 15, 2011  
18 (Dkt. Entry 34);

19 WHEREAS, certain of the attorneys representing Plaintiff and Defendants practice in  
20 New York, New York and Washington, District of Columbia, and can best represent their client  
21 by appearing in person for both events; and

22 WHEREAS, the hearing on the motion to dismiss may clarify certain case management  
23 issues, allowing for a more productive conference.

24 IT IS HEREBY STIPULATED, pursuant to Civil Local Rule 16-2, that the parties to the  
25 above-referenced action agree and respectfully request that this Court order that the date of the  
26 Initial Case Management Conference be postponed until December 15, 2011, to occur following  
27 argument on the motion to dismiss.

The proposed revised case management schedule is as follows:

Date	Event	Governing Rule
7/22/2011	Complaint filed	
11/23/2011	Last day to: <ul style="list-style-type: none"><li>meet and confer re: initial disclosures, early settlement, ADR process selection, and discovery plan</li><li>file ADR Certification signed by Parties and Counsel</li><li>file either Stipulation to ADR Process or Notice of Need for ADR Phone Conference</li></ul>	F. R. Civ. P. 26(f) & ADR L.R.3-5  Civil L.R. 16-8 (b) & ADR L.R. 3-5(b) Civil L.R. 16-8 (c) & ADR L.R. 3-5(b) & (c)
12/8/2011	Last day to submit a joint case management conference statement and complete initial disclosures	F. R. Civ. P. 26(a) (1) Civil L.R . 16-9
12/15/2011	Initial Case Management Conference (CMC) in Courtroom 8, San Francisco following argument of the Motion to Dismiss	Civil _L.R. 16-10

This relief would not require any other changes in the ADR process or schedule in the case.

Dated: October 26, 2011 PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP

By: /s/ Charles E. Davidow

Charles E. Davidow  
Attorneys for All Defendants

Dated: October 26, 2011 HAUSFELD LLP

By: /s/ Michael P. Lehmann

Michael P. Lehmann  
Attorneys for Plaintiff

**Attestation:** The filer of this document attests that the concurrence of the other signatories thereto has been obtained.

/s/ Frank Busch

1 PURSUANT TO STIPULATION, IT IS SO ORDERED

2 The case management conference shall immediately follow hearing on motion to dismiss.  
3 PLEASE NOTE THERE WILL BE NO MORE CONTINUANCES.

4 Dated: October 27, 2011

Hon. William ~~H.~~ Alsup  
United States District Judge

