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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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

19 Plaintiff,

20 || v.

21 THE BANK OF NEW YORK MELLON
22 CORPORATION, THE BANK OF NEW
23 YORK MELLON, THE BANK OF NEW
24 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.

1 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">• meet and confer re: initial disclosures, early settlement, ADR process selection, and discovery plan• file ADR Certification signed by Parties and Counsel• file either Stipulation to ADR Process or Notice of Need for ADR Phone Conference	F. R. Civ. P. 26(f) & ADR L.R.3-5
12/8/2011	Last day to submit a joint case management conference statement and complete initial disclosures	Civil L.R. 16-8 (b) & ADR L.R. 3-5(b)
12/15/2011	Initial Case Management Conference (CMC) in Courtroom 8, San Francisco following argument of the Motion to Dismiss	Civil L.R. 16-8 (c) & ADR L.R. 3-5(b) & (c)
		F. R. Civ. P. 26(a) (1)
		Civil L.R . 16-9
		Civil L.R. 16-10

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

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

18 By: /s/ Charles E. Davidow

19 Charles E. Davidow
20 Attorneys for All Defendants

21 Dated: October 26, 2011 HAUSFELD LLP

22 By: /s/ Michael P. Lehmann

23 Michael P. Lehmann
24 Attorneys for Plaintiff

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

26 /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

5 Hon. William H. Alsup
6 United States District Judge

