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5 Attorneys for Plaintiffs

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 8 UNITED STATES DISTRICT COURT  
 9 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
 10 SAN FRANCISCO DIVISION

11 STEVEN SIEGAL, JAMES RYBICKI, DAVID ) Case No. 13 Civ. 3570-JSC  
 GROBLEBE, individually and as General Partner )  
 12 of GROBCO II, and CHRISTIAN WIPF, ON ) **FIFTH STIPULATION AND**  
 BEHALF OF THEMSELVES AND ALL ) ~~PROPOSED~~ **ORDER STAYING**  
 13 INDIVIDUALS SIMILARLY SITUATED, ) **PROCEEDINGS**  
 )  
 14 Plaintiffs,) )  
 )  
 15 vs. ) )  
 )  
 16 G. THOMAS GAMBLE, LOREN J. MILLER, )  
 HENRY LOWENSTEIN, PAUL W. BATEMAN, )  
 17 EDWARD M. GABRIEL, JAMES S. MAYER, )  
 BEHROOZ SARAFRAZ, LYNN BLYSTONE, )  
 18 ALFRED LOPEZ, MASTON CUNNINGHAM, )  
 JOHN DURBIN, GREG BILLINGER, K&L )  
 19 GATES LLP, CHARLES A. DALE III, JOSHUA )  
 LANE, AND DOES 1 THROUGH 100, )  
 20 INCLUSIVE, )  
 )  
 21 Defendants.)

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1           WHEREAS, on June 27, 2013, plaintiffs filed a Complaint (the “Complaint”) in the  
2 Superior Court of the State of California, County of San Francisco against the named defendants;

3           WHEREAS, on August 1, 2013, the action was timely removed from the Superior  
4 Court of the State of California, County of San Francisco, to the United States District Court for  
5 the Northern District of California;

6           WHEREAS, all parties have agreed that it is in the best interests of all parties to  
7 explore the possibility of consensual resolution and to stay this litigation during that process;

8           WHEREAS, a mediation involving the parties and counsel in this action and in the  
9 jointly administered proceedings in the United States Bankruptcy Court for the District of  
10 Delaware (Case No. 12-12291 (MFW)) was held on November 12, 2013 (the “November  
11 Mediation”);

12           WHEREAS, the November Mediation was productive, but the parties agreed that  
13 further mediation sessions would be beneficial, and accordingly subsequent mediation sessions  
14 were held on January 8, 2014, and on February 7, 2014;

15           WHEREAS, a number of the parties have reached agreements in principle, and are  
16 in the process of finalizing all the terms of their agreements;

17           WHEREAS, in furtherance of efforts to reach a consensual resolution, the parties  
18 previously entered into stipulations to stay proceedings in this action temporarily, while preserving  
19 any and all claims, defenses, or other rights they may have, and without prejudice to any party;

20           WHEREAS, the Court previously approved the parties’ prior stipulations (See Doc.  
21 Nos. 18, 22, 24), with the most current stay scheduled to lapse on February 28, 2014;

22           WHEREAS, the parties believe that a further temporary stay of proceedings is  
23 likely to conserve judicial economy and the parties’ resources;

24           NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and  
25 between and among all parties, subject to the approval of the Court, as follows (the “Stipulation”):

- 26           1.     The above-captioned action shall be stayed until April 25, 2014;
- 27           2.     Plaintiffs’ deadline to file a motion to remand is extended until May 26,  
28           2014;

1 3. Defendants' deadline to file a responsive pleading or a motion to dismiss  
2 the Complaint is extended until June 16, 2014 or, in the event that a motion to  
3 remand is filed, until 45 days after the entry of the Court's order deciding the  
4 remand motion;

5 4. The Case Management Conference ("CMC") currently set for ~~June 5, 2014~~ April 3, 2014  
6 is continued until July 31, 2014. All other deadlines listed in the Order Setting  
7 Initial Case Management Conference and ADR Deadlines are continued  
8 accordingly. The deadline by which the parties must file written consent to the  
9 jurisdiction of the magistrate judge or request reassignment to a district judge also  
10 shall be continued until the date on which the parties must file the initial CMC  
11 statement;

12 5. The fact of this Stipulation shall not be used by any party in arguing against  
13 any motion or pleading that may be filed, including responsive pleadings, motions  
14 to dismiss the Complaint, or other motions (including, without limitation, motions  
15 for transfer or motions for remand), and this Stipulation and the fact of delay due to  
16 this stay may not be used in any way in support of or against any motion that may  
17 be filed by any party;

18 6. This Stipulation shall not act to shorten the time that any party would  
19 otherwise have to move or respond pursuant to the Federal Rules of Civil  
20 Procedure or any applicable local rules, and shall be without prejudice to any  
21 party's right to seek, and the opposing parties' right to oppose, an additional  
22 extension of time to file or respond; and

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7. No defenses of any defendant to this action, including without limitation the defense of lack of personal jurisdiction, are prejudiced or waived by the submission of this Stipulation.

Dated: 2/28/2014

SIMPSON THACHER & BARTLETT LLP

By /s/  
Simona G. Strauss

Attorneys for Defendants Paul W. Bateman, Greg Billinger, Maston Cunningham, John Durbin, Edward M. Gabriel, Henry Lowenstein, James S. Mayer, and Loren J. Miller

Dated: 2/28/2014

AKERMAN LLP (F/K/A AKERMAN SENTERFITT)

By /s/  
Karen Ciccone

Attorneys for Defendant Lynn Blystone

Dated: 3/3/2014

COOKE KOBRICK & WU LLP

By /s/  
Christopher C. Cooke

Attorneys for Defendants Behrooz Sarafraz and Alfred Lopez

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Dated: 2/28/2014

REED SMITH LLP

By /s/  
James Neudecker

Attorneys for Defendant G. Thomas Gamble

Dated: 2/28/2014

K&L GATES LLP

By /s/  
Charles Tea

Attorneys for Defendants K&L Gates LLP, Charles A. Dale III, and Joshua Lane

Dated: 2/28/2014

MARKUN ZUSMAN FRENIERE & COMPTON  
LLP

By /s/  
Edward S. Zusman

Attorneys for Plaintiffs


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**ORDER**

Pursuant to the parties' stipulation and pursuant to Rule 6-1(a) of the Civil Local Rules, the Court hereby adopts and approves the terms of the parties' stipulation set forth above. This action is stayed until April 25, 2014. The Case Management Conference is continued to July 31, 2014, at 10:00 am. ~~1:30 p.m.~~ A joint Case Management Statement and Consent/Declination are due on July 24, 2014.

IT IS SO ORDERED.

Dated: 3/11/14

  
\_\_\_\_\_  
The Honorable ~~Jacqueline S. Corley~~  
United States ~~Magistrate Judge~~  
District Judge