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11 Attorneys for Plaintiff  
 FEDERAL DEPOSIT INSURANCE  
 12 CORPORATION as Receiver for  
 SONOMA VALLEY BANK

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

18 FEDERAL DEPOSIT INSURANCE  
 CORPORATION as Receiver for  
 19 SONOMA VALLEY BANK,

20 Plaintiff,

21 v.

22 MELVIN J. SWITZER, SEAN C.  
 CUTTING, and BRIAN MELLAND,

23 Defendants.

Case No. 3:13-cv-03834-RS

**STIPULATION TO EXTEND THE  
 BRIEFING SCHEDULE OF  
 DEFENDANTS' MOTIONS TO DISMISS,  
 AND TO PERMIT PLAINTIFF TO FILE  
 ONE OVERLENGTH OPPOSITION  
 BRIEF; [~~PROPOSED~~] ORDER**

1 Plaintiff Federal Deposit Insurance Corporation as Receiver for Sonoma Valley Bank  
2 (“Plaintiff”) and Defendants Sean C. Cutting (“Cutting”), Melvin J. Switzer (“Switzer”) and  
3 Brian Melland (“Melland”) (collectively, “Defendants”), by and through their counsel, hereby  
4 enter into this Stipulation based on the following:

5 1. On December 10, 2013, Defendants Cutting and Switzer responded to Plaintiff’s  
6 complaint by filing a Motion to Dismiss the Complaint Pursuant to FRCP 12(b)(6) (“Motion to  
7 Dismiss”) [Doc. Nos. 13-17].

8 2. On January 15, 2014, Defendant Melland (“Melland”) responded to the complaint  
9 by filing a separate Motion to Dismiss the Complaint Pursuant to FRCP 12(b)(6) [Doc. No. 20-  
10 21].

11 3. On December 13, 2013, Plaintiff and Defendants Cutting and Switzer entered a  
12 stipulation, and the Court entered an order, providing that Plaintiff shall file opposition papers by  
13 January 29, 2014, with Defendants’ reply papers due February 12, 2014, and the hearing date for  
14 the Motions to Dismiss on March 13, 2014 at 1:30 p.m. in Courtroom 3 [Doc. No. 18].

15 4. To accommodate a conflict of the Plaintiff’s counsel, the parties now propose to  
16 extend the above briefing deadline, with Plaintiff’s opposition to both motions due February 4,  
17 2014, and Defendants’ reply papers due February 21, 2014.

18 5. Further, for the sake of efficiency, the parties propose to allow Plaintiff to file a  
19 single brief in opposition to both Motions to Dismiss with a page limitation of thirty-five (35)  
20 pages rather than filing two separate opposition briefs each with a page limitation of twenty-five  
21 (25) pages, pursuant to Rule 7-4 of the Civil Local Rules, U.S. District Court, Northern District of  
22 California.

23 THEREFORE, IT IS HEREBY STIPULATED AND AGREED THAT Plaintiff’s  
24 opposition to the Motions to Dismiss shall be filed on or before February 4, 2014; Defendants’  
25 reply papers shall be filed on or before February 21, 2014; and the Motions to Dismiss shall  
26 remain scheduled for hearing on March 13, 2014 at 1:30 p.m. in Courtroom 3. Further, Plaintiff  
27 may file a single brief in opposition to both motions, not to exceed thirty-five (35) pages of text.

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1 Dated: January 29, 2014

SCHIFF HARDIN LLP

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By: Robert B. Mullen

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Antony S. Burt  
Robert B. Mullen  
Nicole S. Kilgore  
Attorneys for Plaintiff  
FEDERAL DEPOSIT INSURANCE  
CORPORATION as Receiver for  
SONOMA VALLEY BANK

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7

8 Dated: January 29, 2014

JONES DAY

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10

By: Neal J. Stephens

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Neal J. Stephens  
Valerie McConnell  
Attorneys for Defendant  
SEAN C. CUTTING

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13

14 Dated: January \_\_\_\_\_, 2014

DUANE MORRIS LLP

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16

By: \_\_\_\_\_

17

George D. Niespolo  
Stephen H. Sutro  
Attorneys for Defendant  
MELVIN J. SWITZER

18

19 Dated: January 29, 2014

GEARY, SHEA, O'DONNELL,  
GRATTAN & MITCHELL, P.C.

20

21

By: John A. Holdredge

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John A. Holdredge  
Matthew K. Good  
Attorneys for Defendant  
BRIAN MELLAND

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Dated: January \_\_\_\_\_, 2014

SCHIFF HARDIN LLP

By: \_\_\_\_\_

Antony S. Burt  
Robert B. Mullen  
Nicole S. Kilgore  
Attorneys for Plaintiff  
FEDERAL DEPOSIT INSURANCE  
CORPORATION as Receiver for  
SONOMA VALLEY BANK

Dated: January 29, 2014

JONES DAY

By: \_\_\_\_\_

Neal J. Stephens  
Valerie McConnell  
Attorneys for Defendant  
SEAN C. CUTTING

Dated: January 29, 2014

DUANE MORRIS LLP

By: \_\_\_\_\_

George D. Niespolo  
Stephen H. Sutro  
Attorneys for Defendant  
MELVIN J. SWITZER

Dated: January \_\_\_\_\_, 2014

GEARY, SHEA, O'DONNELL,  
GRATTAN & MITCHELL, P.C.

By: \_\_\_\_\_

John A. Holdredge  
Matthew K. Good  
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BRIAN MELLAND

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~~[PROPOSED]~~ ORDER

Pursuant to the Parties' stipulation, Plaintiff Federal Deposit Insurance Corporation as Receiver for Sonoma Valley Bank's opposition to Defendants Sean C. Cutting and Melvin J. Switzer's Motion to Dismiss the Complaint Pursuant to FRCP 12(b)(6), and opposition to Defendant Brian Melland's Motion to Dismiss Complaint Pursuant to FRCP 12(b)(6), shall be filed on or before February 4, 2014. Defendants' reply papers, if any, shall be filed on or before February 21, 2014. Further, Plaintiff may file a single brief in opposition to both Motions to Dismiss, not to exceed 35 pages of text. The hearing of the Motions to Dismiss and the Initial Case Management Conference shall remain scheduled for March 13, 2014 at 1:30 p.m. in Courtroom 3 before the Honorable Richard Seeborg.

IT IS SO ORDERED.

Dated: 1/29, 2014

  
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U.S. District Judge

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**PROOF OF SERVICE**

I, the undersigned, certify and declare as follows:

I am over the age of eighteen years and not a party to this action. My business address is One Market, Spear Street Tower, 32nd Floor, San Francisco, California. On the date stated below, at San Francisco, California, I served the attached document(s) on the parties in this action as follows:

**STIPULATION TO EXTEND THE BRIEFING SCHEDULE OF  
DEFENDANTS' MOTIONS TO DISMISS, AND TO PERMIT PLAINTIFF  
TO FILE ONE OVERLENGTH OPPOSITION BRIEF;  
(PROPOSED) ORDER**

**BY E-SERVING:** By electronically serving the document(s) listed above via ECF/PACER on the recipients designed on the Transaction Receipt located on the ECF/PACER website.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed this 29<sup>th</sup> day of January 2014, at San Francisco, California.

/s/ Nadine E. Williams  
Nadine E. Williams

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