

1 JOHN A. HOLDREDGE, ESQ., SBN 150061  
 2 MATTHEW K. GOOD, ESQ., SBN 226962  
 3 GEARY, SHEA, O'DONNELL, GRATTAN & MITCHELL, P.C.  
 37 Old Courthouse Square, Fourth Floor  
 4 Santa Rosa, California 95404  
 Telephone: 707/545-1660  
 Facsimile: 707/545-1876

5 Attorneys for Defendant  
 6 BRIAN MELLAND

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

12 FEDERAL DEPOSIT INSURANCE  
 13 CORPORATION as Receiver for SONOMA  
 VALLEY BANK,

14 Plaintiff,

15 v.

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

17 Defendants.  
 18

CASE NO.: 3:13-cv-03834-RS

**STIPULATION AND ORDER TO EXTEND  
 TIME TO RESPOND TO COMPLAINT  
 AND REQUEST FOR PRODUCTION SET  
 ONE UNTIL AFTER THIS COURT  
 ISSUES AN ORDER ON DEFENDANTS'  
 MOTION TO STAY THE CIVIL  
 PROCEEDING**

Courtroom 3, 17th Floor

19  
 20 TO THIS HONORABLE COURT:

21 Pursuant to Northern District Local Rule 6-1, the parties, through their respective counsel,  
 22 agree and stipulate as follows:

- 23 1. On August 19, 2013, plaintiff Federal Deposit Insurance Corporation as Receiver for  
 24 Sonoma Valley Bank ("FDIC-R") filed the Complaint for negligence, gross negligence, and breach  
 25 of fiduciary duty naming defendants Melvin J. Switzer, Sean C. Cutting ("Cutting") and Brian  
 26 Melland ("Melland"). Defendants brought Motions to Dismiss, which this Court denied by written  
 27 Order on April 9, 2012 providing defendants 20 days to answer the Complaint. Defendants'  
 28 Answers are currently due on April 29, 2014.

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

1           2.       On March 28, 2014, FDIC-R served Requests for Production, Set One by email on  
2 all defendants. Defendants' responses are due May 1, 2014.

3           3.       On April 9, 2014, the U.S. Attorney for the Northern District of California unsealed  
4 an indictment against Melland and Cutting, among others, filed in this Court on March 18, 2014  
5 ("the Criminal Prosecution").

6           4.       Defendants Melland and Cutting intend to file a Motion to Stay Civil Proceedings  
7 Pending Resolution of Criminal Prosecution ("Motion to Stay") on or before Tuesday, April 29,  
8 2014. In the Motion to Stay, Melland and Cutting will request that all proceedings and discovery in  
9 this action be stayed pending the resolution of the Criminal Prosecution.

10          5.       On this basis, the parties hereto agree and stipulate that Melland's and Cutting's time  
11 to answer the Complaint and respond to Request for Production, Set One shall be extended until  
12 such time as the Court rules on the Motion to Stay. If the Motion to Stay is denied and the civil  
13 action proceeds, Melland and Cutting agree to answer the Complaint and respond to Request for  
14 Production, Set One within ten (10) days after the Court issues its ruling denying the Motion to  
15 Stay.

16          6.       Nothing in this Stipulation may be construed to waive or limit in any way any  
17 argument FDIC-R may advance in opposing the Motion to Stay.

18          7.       The Motion to Extend Time filed by Melland and joined by Cutting is moot and  
19 maybe be terminated by the clerk.

20               IT IS SO STIPULATED.

21 DATED: April 24, 2014

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

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23  
24 By           /s/ Matthew K. Good            
MATTHEW K. GOOD  
Attorneys for Defendant  
BRIAN MELLAND

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26 LAW OFFICES OF  
GEARY,  
SHEA,  
O'DONNELL,  
GRATTAN &  
MITCHELL  
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DATED: April 24, 2014

JONES DAY

By /s/ Neal Stephens  
NEAL STEPHENS  
Attorneys for Defendant  
SEAN C. CUTTING

DATED: April 24, 2014

SCHIFF HARDIN LLP

By /s/ Robert Mullen  
ROBERT MULLEN  
Attorneys for Plaintiff  
FEDERAL DEPOSIT INSURANCE  
CORPORATION AS RECEIVER FOR  
SONOMA VALLEY BANK

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**ORDER OF THE COURT**

After reviewing the parties' Stipulation, and good cause appearing, the Court hereby orders as follows:

Defendant Brian Melland and Sean Cutting's last day to respond to plaintiff's Complaint and respond to Request for Production, Set One is hereby extended to such time as the Court rules on their Motion(s) to Stay Civil Proceedings Pending Resolution of Criminal Prosecution. If the Motion to Stay is denied and the civil action proceeds, Melland and Cutting shall answer the Complaint and respond to Request for Production, Set One within ten (10) days after the Court issues its ruling denying the Motion to Stay.

Pursuant to stipulation, IT IS SO ORDERED.

DATED: 4/24/14

  
UNITED STATES DISTRICT COURT JUDGE

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