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9 Attorneys for Defendant  
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Attorney for Plaintiff  
 RON DAVIS

11  
 12 **UNITED STATES DISTRICT COURT**  
 13 **NORTHERN DISTRICT OF CALIFORNIA**

15 RON DAVIS, an individual, on behalf of  
 himself and all others similarly situated,

16 Plaintiff,

17 v.

18 VISA, INC., a Delaware Corporation,

19 Defendant.

Case No. 13-cv-5125-CRB

**JOINT STIPULATION AND ORDER RE:  
 CONSENTING TO FILING SECOND  
 AMENDED COMPLAINT AND  
 CONTINUING INITIAL CASE  
 MANAGEMENT CONFERENCE**

FAC Filed: December 16, 2013

Trial Date: None Set

22 WHEREAS, Plaintiff filed and served his First Amended Complaint ("FAC") in  
 23 the above-entitled action on December 16, 2013;

24 WHEREAS, the Parties agreed to a stipulated briefing schedule for Defendant's  
 25 forthcoming motion to dismiss on January 14, 2014;

26 WHEREAS, Defendant filed and served a Motion to Dismiss Plaintiff's FAC on  
 27 January 15, 2014 pursuant to that stipulated briefing schedule;

1 WHEREAS, Plaintiff desires to file the attached amended complaint in light of  
2 Defendant's Motion, which will supersede his FAC, and which removes certain causes of actions  
3 and supplements Plaintiff's allegations contained in the FAC;

4 WHEREAS, Plaintiff previously amended his complaint on December 16, 2013  
5 and any further amendments require leave of the court or consent from Defendant;

6 WHEREAS, Defendant consents to Plaintiff filing the proposed second amended  
7 complaint attached hereto as Exhibit A;

8 WHEREAS, Defendant reserves all rights to move to dismiss one or more of the  
9 asserted claims or to otherwise challenge the sufficiency of the allegations in the proposed  
10 Second Amended Complaint, and any non-opposition by Defendant shall not be interpreted as  
11 admitting any of the allegations in the proposed Second Amended Complaint;

12 WHEREAS, under the Parties prior agreement, Plaintiff will file the Second  
13 Amended Complaint ("SAC") on or before February 28, 2014;

14 WHEREAS, Defendant will withdraw its pending Motion to Dismiss the First  
15 Amended Complaint upon Plaintiff's filing of the SAC;

16 WHEREAS, Defendant intends to file a motion to dismiss the SAC pursuant to the  
17 deadlines in the Federal Rules of Civil Procedure;

18 WHEREAS, the Parties agree that it would be in the best interests of the parties  
19 and judicial economy if the Initial Case Management Conference is continued to a date following  
20 a hearing on Defendant's forthcoming motion to dismiss;

21 WHEREAS, the parties also agree that they would best be able to evaluate any  
22 ADR options with the benefit of a ruling on Defendant's Motion;

23 WHEREAS, the parties believe that at this time, complying with the Initial Case  
24 Management Schedule's requirements would be unnecessarily burdensome to the parties and  
25 would divert the parties' resources from meaningfully briefing and evaluating the issues raised in  
26 Plaintiff's SAC;

27 WHEREAS, the parties have agreed to the following Amended Case Management  
28 Schedule:

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**April 9, 2014:**

- Last day to meet and confer re: initial disclosures, early settlement, ADR process selection, and discovery plan;
- Last day to file ADR Certification signed by Parties and Counsel;
- Last day to file either Stipulation to ADR Process or Notice of Need for ADR Phone Conference;

**May 2, 2014:**

- Last day to file Rule 26(f) Report, complete initial disclosures or state objection in Rule 26(f) Report and file Case Management Statement; and

**May 9, 2014:**

- Initial Case Management Conference, (CMC) in Courtroom 6, 17th floor at 10:00 AM.

NOW, THEREFORE, pursuant to Rule 6-2 of the Local Civil Rules of the United States District Court for the Northern District of California, it is hereby stipulated by and among Plaintiff and Defendant and through their counsel of record that, pursuant to Federal Rule of Civil Procedure 15(a)(2), Defendant consents to Plaintiff filing the attached proposed second amended complaint, which Plaintiff shall file no later than February 28, 2014.

It is also stipulated that the currently scheduled CMC will be reschedule to May 9, 2014 in Courtroom 6, 17th floor at 10:00 AM; the last day to meet and confer over initial disclosures, early settlement, ADR process selection, and discovery plan is moved to April 9, 2014; the last day for parties to file ADR Certification signed by Parties and Counsel is moved to April 9, 2014; the last day to file either Stipulation to ADR Process or Notice of Need for ADR Phone Conference is moved to April 9, 2014; and the Last day to file Rule 26(f) Report, complete

1 initial disclosures or state objection in Rule 26(f) Report and file Case Management Statement is  
2 moved to May 2, 2014.

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IT IS SO STIPULATED.

Dated: February 26, 2014

RICHARD B. GOETZ  
MATTHEW D. POWERS  
JACLYN BLANKENSHIP  
O'MELVENY & MYERS LLP

By: /s/ Jaclyn Blankenship  
Jaclyn Blankenship  
Attorneys for Defendant  
VISA, INC.

Dated: February 26, 2014

CHARLES D. MARSHALL  
MARSHALL LAW FIRM

By: /s/ Charles D. Marshall  
Charles D. Marshall  
Attorney for Plaintiff  
RON DAVIS

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**ATTESTATION OF FILING**

Pursuant to Local Rule 5-1(i)(3) regarding signatures, I, Jaclyn Blankenship, hereby attest that concurrence in the filing of this Joint Stipulation and [Proposed] Order re: Consent to Filing Second Amended Complaint and Continuing Initial Case Management Conference has been obtained from Charles D. Marshall with conformed signatures above.

Dated: February 26, 2014

By: /s/ Jaclyn Blankenship  
Jaclyn Blankenship  
O'MELVENY & MYERS LLP  
400 South Hope Street  
Los Angeles, CA 90071  
Telephone: (213) 430-6000  
Facsimile: (213) 430-6407

1 **ORDER**

2 The Court having considered the Joint Stipulation and [Proposed] Order re: Consent to  
3 Filing Second Amended Complaint and Continuing Initial Case Management Conference  
4 submitted by the Parties, and good cause appearing:

- 5 1. The Stipulation is approved;
- 6 2. Plaintiff shall file his proposed Second Amended Complaint attached to the Joint  
7 Stipulation as Exhibit A no later than March 6, 2014;
- 8 3. The Case Management Conference is hereby continued until May 9, 2014, in  
9 Courtroom 6, 17th floor at 8:30 A.M.,
- 10 4. The Initial Case Management Order is hereby amended as follows:

11 March 4, 2014:

- 12 • Last day to meet and confer re: initial disclosures, early settlement, ADR process  
13 selection, and discovery plan;
- 14 • Last day to file ADR Certification signed by Parties and Counsel;
- 15 • Last day to file either Stipulation to ADR Process or Notice of Need for ADR Phone  
16 Conference;

17 May 2, 2014:

- 18 • Last day to file Rule 26(f) Report, complete initial disclosures or state objection in  
19 Rule 26(f) Report and file Case Management Statement;

20 May 9, 2014:

- 21 • Initial Case Management Conference, (CMC) in Courtroom 6, 17th floor at 8:30 AM.

22 **IT IS SO ORDERED.**

23  
24 DATED: March 4, 2014

