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ERNESTO ESPINOZA,

Plaintiff,

v.

MICHAEL R. LYNCH, et al.

Defendants,

-and-

HEWLETT-PACKARD COMPANY,

Nominal Defendant.

CASE NO. 12-CV-06025

Judge: Hon. Charles R. Breyer
Complaint Filed: November 27, 2012

ANDREA BASCHERI, et al,

Plaintiffs,

v.

LEO APOTHEKER, et al.

Defendants,

-and-

HEWLETT-PACKARD COMPANY,

Nominal Defendant.

CASE NO. 12-CV-06091

Judge: Hon. Charles R. Breyer
Complaint Filed: November 30, 2012

MARTIN BERTISCH,

Plaintiff,

v.

LEO APOTHEKER, et al.

Defendants,

-and-

HEWLETT-PACKARD COMPANY,

Nominal Defendant.

CASE NO. 12-CV-06123

Judge: Hon. Charles R. Breyer
Complaint Filed: December 3, 2012

STIPULATION AND [PROPOSED] ORDER

1 CITY OF BIRMINGHAM RETIREMENT
2 AND RELIEF SYSTEM,

3 Plaintiff,

4 v.

5 LEO APOTHEKER, et al.

6 Defendants,

7 -and-

8 HEWLETT-PACKARD COMPANY,

9 Nominal Defendant.
10

11 JOSEPH TOLA,

12 Plaintiff,

13 v.

14 MICHAEL R. LYNCH, et al.

15 Defendants,

16 -and-

17 HEWLETT-PACKARD COMPANY,

18 Nominal Defendant.
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CASE NO. 12-CV-06416

Judge: Hon. Charles R. Breyer

Complaint Filed: December 18, 2012

CASE NO. 12-CV-06423

Judge: Hon. Charles R. Breyer

Complaint Filed: December 18, 2012

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STANLEY MORRICAL,

Plaintiff,

v.

MARGARET C. WHITMAN, et al.

Defendants,

-and-

HEWLETT-PACKARD COMPANY,

Nominal Defendant.

CASE NO. 12-CV-06434

Judge: Hon. Charles R. Breyer
Complaint Filed: December 19, 2012

1 WHEREAS, the following seven actions are now pending in the Northern District of
2 California (collectively, the “HP Derivative Actions”):

3 *Philip Riccardi v. Michael R. Lynch et al.*, Case No. 12-cv-06003-CRB

4 *Ernesto Espinoza v. Michael R. Lynch et al.*, Case No. 12-cv-06025-CRB

5 *Andrea Bascheri et al. v. Leo Apotheker et al.*, Case No. 12-cv-06091-CRB

6 *Martin Bertisch v. Leo Apotheker et al.*, Case No. 12-cv-06123-CRB

7 *City of Birmingham Retirement and Relief System v. Leo Apotheker et al.*,
8 Case No. 12-cv-06416-CRB

9 *Joseph Tola v. Michael R. Lynch et al.*, Case No. 12-cv-06423-CRB

10 *Stanley Morrical v. Margaret C. Whitman et al.*, Case No. 12-cv-06434-CRB;

11
12 WHEREAS, the seven HP Derivative Actions are styled as shareholder derivative actions
13 on behalf of Nominal Defendant Hewlett-Packard Company (“HP”), and each asserts claims that
14 arise from or relate to HP’s acquisition of Autonomy Corporation PLC in 2011;

15 WHEREAS, the Court determined by order entered January 3, 2013 in the earlier-filed
16 action entitled *Nicolow v. Hewlett-Packard Co.*, Case No. 12-cv-05980-CRB, that each of the
17 seven HP Derivative Actions identified above are related pursuant to Local Rule 3-12(a), and all
18 have been assigned to the Honorable Charles R. Breyer;¹

19 WHEREAS, the HP Derivative Actions identified above all arise out of the same
20 transactions and occurrences and involve the same or substantially similar issues of law and
21 facts, and, therefore, should be consolidated for all purposes under Fed. R. Civ. P. 42(a);

22
23
24 ¹ The Court’s January 3, 2013 Order determined that ten pending actions are related
25 to the earliest-filed case, which is a putative securities class action captioned *Nicolow v. Hewlett-*
26 *Packard Co.*, Case No. 12-cv-05980-CRB (“*Nicolow*”). The pending actions related to *Nicolow*
27 consist of (i) the seven HP Derivative Actions that are the subject of this Stipulation; (ii) a
28 putative securities class action captioned *Pokoik v. Hewlett-Packard Co.*, Case No. 12-cv-06074-
CRB (“*Pokoik*”); (iii) an ERISA action captioned *Laffen v. Hewlett-Packard Co.*, Case No. 12-
cv-06199-CRB (“*Laffen*”); and (iv) an ERISA action captioned *Lustig v. Whitman*, Case No. 12-
cv-06410-CRB (“*Lustig*”). The *Nicolow*, *Pokoik*, *Laffen*, and *Lustig* actions are not styled as
shareholder derivative actions on behalf of HP and are not subject to this Stipulation.

1 WHEREAS, counsel for plaintiffs in the above referenced actions have met and
2 conferred and have agreed to a schedule for filing a motion for lead plaintiff and lead counsel;

3 WHEREAS, counsel for plaintiffs, nominal defendant HP, and the undersigned
4 defendants have met and conferred and have agreed to a schedule for filing a consolidated
5 complaint following the appointment of lead plaintiff and lead counsel;

6 WHEREAS, counsel for plaintiffs, nominal defendant HP, and the undersigned
7 defendants have met and conferred and have agreed that no answers, motions, or other responses
8 to the complaints (“Responses”) need be filed in the HP Derivative Actions by HP or by any
9 other defendant until after the appointment of lead plaintiff and lead counsel and the filing of a
10 consolidated complaint or designation of an operative complaint, as provided below;

11 WHEREAS, counsel for plaintiffs, nominal defendant HP, and the undersigned
12 defendants have met and conferred and have agreed to a schedule setting a date for Responses to
13 the consolidated complaint and a briefing schedule for any motions filed in response to the
14 consolidated complaint unless otherwise ordered by the Court pursuant to motion or stipulation;

15 WHEREAS, counsel for nominal defendant HP has raised with plaintiffs’ counsel issues
16 regarding a potential stay pending determination of motions to dismiss in related class actions
17 and staged briefing of motions in this action and will seek to meet and confer with the parties on
18 these subjects regarding a potential stipulation and/or motion schedule following the
19 appointment of lead plaintiff and lead counsel.

20 WHEREAS, the agreed-upon schedule is not for the purpose of delay, promotes judicial
21 efficiency, and will not cause prejudice to any party,

22 NOW, THEREFORE, IT IS STIPULATED AND AGREED by plaintiffs and all
23 defendants who have appeared in the HP Derivative Action, by and through their undersigned
24 respective counsel of record, as follows:

25 **I. CONSOLIDATION OF ACTIONS**

26 1. The seven HP Derivative Actions identified above are hereby consolidated for all
27 purposes, including pretrial proceedings, trial, and appeal.

28

1 6. When a case or claim that properly belongs as part of *In re Hewlett-Packard*
2 *Company Shareholder Derivative Litigation* is filed in this Court or transferred or removed to
3 this Court from another court and assigned to Judge Breyer, then following the filing of notice by
4 any party to such action or by a party to *In re Hewlett-Packard Company Shareholder Derivative*
5 *Litigation* in such other action and this consolidated action, and service of such notice upon all
6 parties that have appeared in the affected actions, the clerk of this Court shall:

7 (a) Place a copy of this Order in the separate file for such action;

8 (b) Mail to the attorneys for the plaintiff(s) in the newly filed or transferred case a
9 copy of this Order and direct that this Order be served upon or mailed to any new defendant(s) or
10 their counsel in the newly filed or transferred case;

11 (c) Make an appropriate entry on the Master Docket. Counsel recognizes that this
12 Court requests the assistance of counsel in calling to the attention of the clerk of this Court the
13 filing or transfer of any case which properly might be consolidated as part of *In re Hewlett-*
14 *Packard Company Shareholder Derivative Litigation*; and

15 (d) Close the separate file for such action.

16 7. Counsel for the Defendants signing this Stipulation hereby certify that: (i) service
17 of process has previously been effected or waived with respect to their clients as identified on
18 their signature lines below; or (ii) to the extent their clients have not otherwise been served with
19 process or appeared, counsel for the Defendants signing this Stipulation are authorized to and
20 hereby do waive service of process on behalf of their clients identified below, provided that such
21 waiver of service and the entry into this Stipulation shall not be deemed a waiver of any rights or
22 defenses of any kind, including but not limited to the ability to assert the defense of lack of
23 personal jurisdiction, all of which rights and defenses are expressly reserved.

24 8. Filing of documents via the Court's ECF system shall be deemed to satisfy the
25 service requirement as to all parties who have appeared in the action and whose counsel receive
26 ECF notices electronically. All attorneys of record in *In re Hewlett-Packard Company*
27 *Shareholder Derivative Litigation* must register for ECF and must file an appearance through the
28 ECF system. Any attorneys who have been admitted *pro hac vice* in any of the HP Derivative

1 Actions shall also be deemed admitted in *In re Hewlett-Packard Company Shareholder*
2 *Derivative Litigation* pursuant to the same conditions and requirements. No separate service of
3 documents is required on any party who has appeared in the action but is not registered for ECF.

4 9. The terms of this Order shall not have the effect of making any person or entity a
5 party to any action in which he, she, or it has not been named and properly served in accordance
6 with the Federal Rules of Civil Procedure. The terms of this Order and the consolidation and
7 coordination ordered herein shall not constitute a waiver by any party of any claims in or
8 defenses to any of the actions.

9 **II. SCHEDULE**

10 **A. Motions for Lead Plaintiff and Lead Counsel**

11 10. The following dates shall be in effect for motions for lead plaintiff/counsel in the
12 consolidated action:

13 January 25, 2013: Last Day to File Motions For Lead Plaintiff and Lead Counsel

14 February 8, 2013: Last Day to File Oppositions to Motions For Lead
15 Plaintiff and Lead Counsel

16 February 15, 2013: Last Day to File Replies To Any Opposition to Motions
17 For Lead Plaintiff and Lead Counsel

18 March 1, 2013: Hearing on Motions for Lead Plaintiff and Lead Counsel

19 **B. Existing Complaints**

20 11. The parties named as defendants in the pending complaints in the HP Derivative
21 Actions, including HP (collectively, “Defendants”), shall not be required to answer, file motions,
22 or otherwise take any action in response to any of the complaints currently on file in any of the
23 HP Derivative Actions. The time for such Defendants’ answers, motions, or other responses
24 shall be determined as specified in Paragraph 14 below, following the filing of a consolidated
25 complaint or designation of an operative complaint, or as the Court hereafter may order. In the
26 event additional actions are subsequently consolidated into *In re Hewlett-Packard Company*
27 *Shareholder Derivative Litigation*, the parties named as defendants in the complaints in such
28 additional actions shall not be required to answer, file motions, or otherwise take any action in

1 response to such complaints until the time specified in Paragraph 14 or as otherwise specified by
2 the Court. No Defendant shall be deemed to have submitted to the jurisdiction of this Court or to
3 have waived or otherwise relinquished any rights, arguments, or defenses of any kind by not
4 filing an answer, motion or other response to any complaint in the consolidated action prior to
5 the date specified in Paragraph 14 below or other order of the Court. Pursuant to Local Rule 6-
6 1(a), this paragraph of this Stipulation shall be effective upon its filing with the Court.

7 **C. Filing of a Consolidated Complaint**

8 12. Lead plaintiff shall, within sixty (60) days following the entry and filing of the
9 Court's order selecting a lead plaintiff and lead counsel, serve and file a consolidated amended
10 complaint or designate a previously-filed complaint as the operative complaint (the
11 "Consolidated Complaint"), which will supersede all existing complaints filed in the HP
12 Derivative Actions and any other action that may be consolidated herewith. To the extent any
13 defendant now named in any of the HP Derivative Actions is not named in the Consolidated
14 Complaint, the claims against such defendant shall be deemed dismissed without prejudice.
15 Service shall be effected with respect to any named defendant by serving the Consolidated
16 Complaint on that defendant's counsel, unless such defendant has not previously been served or
17 appeared, in which case service shall be affected according to the Federal Rules of Civil
18 Procedure.

19 13. After the appointment of lead plaintiff and lead counsel, the parties shall submit to
20 the Court any stipulations that may be reached relating to HP's suggestions of a stay and/or the
21 staging of responses to the Consolidated Complaint within ten (10) days after the filing of the
22 Consolidated Complaint. If the parties do not otherwise stipulate and any party seeks to alter or
23 modify the schedule for Responses established in Paragraph 14, such party shall file an
24 appropriate motion with the Court seeking such relief.

25 14. Unless the Court otherwise orders pursuant to stipulation, motion, or for any other
26 reason, Defendants shall file their Responses to the Consolidated Complaint within sixty (60)
27 days following the filing of the Consolidated Complaint (provided, however, that the time
28 prescribed by the Federal Rules of Civil Procedure shall control to the extent those Rules provide

1 for a later response date as to any Defendant who has not been served, waived service, or
2 appeared in the action at the time of this Stipulation). In the event that Defendants file any
3 motions directed at the Consolidated Complaint, the opposition brief shall be filed within sixty
4 (60) days of the motions and the reply briefs shall be filed within thirty (30) days thereafter.
5 This stipulation is without prejudice to any party's right to move to continue any response(s) to
6 the Consolidated Complaint pursuant to the federal and local rules.

7
8
9 **IT IS SO STIPULATED.**

10 DATED: February 14, 2013

COTCHETT, PITRE & McCARTHY, LLP

11
12 By: /s/ Matthew K. Edling
13 MATTHEW K. EDLING

14 JOSEPH W. COTCHETT (Cal. SBN 36324)
15 MARK C. MOLUMPY (Cal. SBN 168009)
16 NANCI E. NISHIMURA (Cal. SBN 152621)
17 ARON K. LIANG (Cal. SBN 228936)
18 MATTHEW K. EDLING (Cal. SBN: 250940)
19 San Francisco Airport Office Center
20 840 Malcolm Road, Suite 200
21 Burlingame, CA 94010
22 Tel: (650) 697-6000
23 Fax: (650) 697-0577
24 jcotchett@cpmlegal.com
25 mmolumphy@cpmlegal.com
26 nnishimura@cpmlegal.com
27 aliang@cpmlegal.com
28 medling@cpmlegal.com

Attorneys for Plaintiff Stanley Morriscal

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DATED: February 14, 2013

BOTTINI & BOTTINI, INC.

By: /s/ Francis A. Bottini, Jr.
FRANCIS A. BOTTINI, JR.

7817 Ivanhoe Avenue, Suite 102
La Jolla, CA 92037
Tel: (858) 914-2001
Fax: (858) 914-2002
fbottini@bottinilaw.com

Attorneys for Plaintiff Andrea Bascheri and Jim Chung

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DATED: February 14, 2013

FINKELSTEIN THOMPSON LLP

By: /s/ Rosemary M. Rivas
ROSEMARY M. RIVAS

505 Montgomery Street, Suite 300
San Francisco, CA 94111
Tel: (415) 398-8700
Fax: (415) 398-8704
rivas@finkelsteinthompson.com

**CAFFERTY CLOBES MERIWETHER &
SPRENGEL LLP**

Bryan L. Clobes
1101 Market Street, Suite 2650
Philadelphia, PA 19107
Tel: (215) 864-2800
Fax: (215) 864-2810
bclobes@caffertyclobes.com

Anthony F. Fata
30 N. LaSalle Street, Suite 3200
Chicago, Illinois 60606
Tel: 312.782.4880
Fax: 312.782.4485
afata@caffertyclobes.com

Attorneys for Plaintiff Joseph Tola

1
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DATED: February 14, 2013

JOHNSON & WEAVER, LLP

By: /s/ Brett M. Weaver
BRETT M. WEAVER

Brett M. Weaver
110 West "A" Street, Suite 750
San Diego, CA 92101
Tel: (619) 230-0063
Fax: (619) 255-1856
brettw@johnsonandweaver.com

Attorneys for Plaintiff Martin Bertisch

1 DATED: February 14, 2013

ROBBINS ARROYO LLP

2 By: /s/ Shane P. Sanders
3 SHANE P. SANDERS

4 Brian J. Robbins
5 Felipe J. Arroyo
6 Shane P. Sanders
7 Kevin S. Kim
8 600 B Street
9 San Diego, CA 92101
10 Tel: (619) 525-3990
11 Fax: (619) 525-3991
12 brobbins@robbinsarroyo.com
13 farroyo@ robbinsarroyo.com
14 ssanders@ robbinsarroyo.com
15 kkim@ robbinsarroyo.com

*Attorneys for Plaintiff Philip Riccardi, Ernesto Espinoza,
and the City of Birmingham Retirement and Relief System*

SAXENA WHITE P.A.

16 Joseph E. White, III
17 Lester R. Hooker
18 2424 North Federal Highway, Suite 257
19 Boca Raton, FL 33431
20 Tel: (561) 394-3399
21 Fax: (561) 394-3382
22 jwhite@saxenawhite.com
23 lhooker@saxenawhite.com

*Attorneys for Plaintiff City of Birmingham Retirement and
Relief System*

1 DATED: February 14, 2013

MORGAN, LEWIS & BOCKIUS LLP

2 By: /s/ Joseph E. Floren
3 JOSEPH E. FLOREN

4 JOSEPH E. FLOREN, State Bar No. 168292
5 CHRISTOPHER J. BANKS, State Bar No. 218779
6 KIM ALEXANDER KANE, State Bar No. 226896
7 MATTHEW S. WEILER, State Bar No. 236052
8 One Market Street, Spear Street Tower
9 San Francisco, CA 94105-1126
10 Tel: 415.442.1000 / Fax: 415.442.1001
11 jfloren@morganlewis.com
12 cbanks@morganlewis.com
13 kkane@morganlewis.com
14 mweiler@morganlewis.com

15 MARC J. SONNENFELD (adm. *pro hac vice*)
16 KAREN PIESLAK POHLMANN (adm. *pro hac vice*)
17 1701 Market Street
18 Philadelphia, PA 19103-2921
19 Tel: 215.963.5000 / Fax: 215.963.5001
20 msonnenfeld@morganlewis.com
21 kpohlmann@morganlewis.com

22 *Attorneys for Nominal Defendant*
23 *Hewlett-Packard Company*

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DATED: February 14, 2013

SKADDEN ARPS SLATE MEAGHER & FLOM LLP

By: /s/ Timothy A. Miller
TIMOTHY A. MILLER

Allen J. Ruby
Timothy A. Miller
Richard S. Horvath, Jr.
525 University Avenue, Suite 1400
Palo Alto, CA 94301
Tel: (650) 470-4519
Fax: (650) 798-6602
Allen.Ruby@skadden.com
Timothy.Miller@skadden.com
Richard.Horvath@skadden.com

Attorneys for Defendants Marc L. Andreessen, Lawrence T. Babbio, Jr., Sari M. Baldauf, Shumeet Banerji, Rajiv L. Gupta, John H. Hammergren, Raymond J. Lane, Ann M. Livermore, Gary M. Reiner Patricia F. Russo, Dominique Senequier, G. Kennedy Thompson, and Ralph V. Whitworth

DATED: February 14, 2013

WILSON SONSINI GOODRICH & ROSATI, P.C.

BY: /s/ Steven M. Schatz
STEVEN M. SCHATZ

Katherine L. Henderson
Bryan J. Kertroser
Brian Danitz
650 Page Mill Road
Palo Alto, CA 94304-1050
Tel: (650) 493-9300
Fax: (650) 565-5100
sschatz@wsgr.com
khenderson@wsgr.com
bketroser@wsgr.com
bdanitz@wsgr.com

Attorneys for Defendant Catherine A. Lesjak

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DATED: January 14, 2013

FENWICK & WEST LLP

BY: /s/ Kevin P. Muck
KEVIN P. MUCK

Marie C. Bafus
Tahir I. Golden
555 California Street, 12th Floor
San Francisco, CA 94104
Tel: (415) 875-2300
Fax: (415) 281-1350
kmuck@fenwick.com
mbafus@fenwick.com
tgolden@fenwick.com

Attorneys for Defendant James T. Murrin

DATED: February 14, 2013

COOLEY LLP

BY: /s/ John C. Dwyer
JOHN C. DWYER

STEPHEN C. NEAL (SBN 170085)
JOHN C. DWYER (SBN 136533)
JEFFREY M. KABAN (SBN 235743)
JEFFREY M. WALKER (SBN 280505)
Five Palo Alto Square
3000 El Camino Real
Palo Alto, CA 94306-2155
Tel: (650) 843-5000
Fax: (650) 849-7400
nealsc@cooley.com
dwyerjc@cooley.com
jkaban@cooley.com
jwalker@cooley.com

Attorneys For Defendant Margaret C. Whitman

1
2
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28

DATED: February 14, 2013

SHEARMAN & STERLING LLP

BY: /s/ Patrick D. Robbins
PATRICK D. ROBBINS

Patrick D. Robbins
Audrey A. Barron
Four Embarcadero Center, Suite 3800
San Francisco, CA 94111-5994
Tel: (415) 616-1100
Fax: (415) 616-1199
probbins@shearman.com
audrey.barron@shearman.com

Alan Goudiss
Sara Ricciardi
599 Lexington Avenue
New York, NY 10022-6069
Tel: (212) 848-4000
Fax: (212) 848-7179
agoudiss@shearman.com
sara.ricciardi@shearman.com

*Attorneys for Defendant Perella Weinberg Partners LP
and Perella Weinberg Partners UK LLP*

1 DATED: February 14, 2013

WILLIAMS & CONNOLLY LLP

2 BY: /s/ Steven M. Farina
3 STEVEN M. FARINA

4 Steven M. Farina
5 Sarah Lynn Lochner
6 725 12th Street, N.W.
7 Washington, D.C. 20005
8 Tel: (202) 434-5000
9 Fax: (202) 434-5029
sfarina@wc.com
slochner@wc.com

Attorneys for Defendant KPMG LLP

11 I, Joseph E. Floren, am the ECF User whose ID and password are being used to file this
12 Stipulation And [Proposed] Order. In compliance with Local Rule 5-1(i)(3), I hereby attest that
13 each of the signatories identified above has concurred in this filing.

14 Executed this 14th day of February 2013 at San Francisco, California.

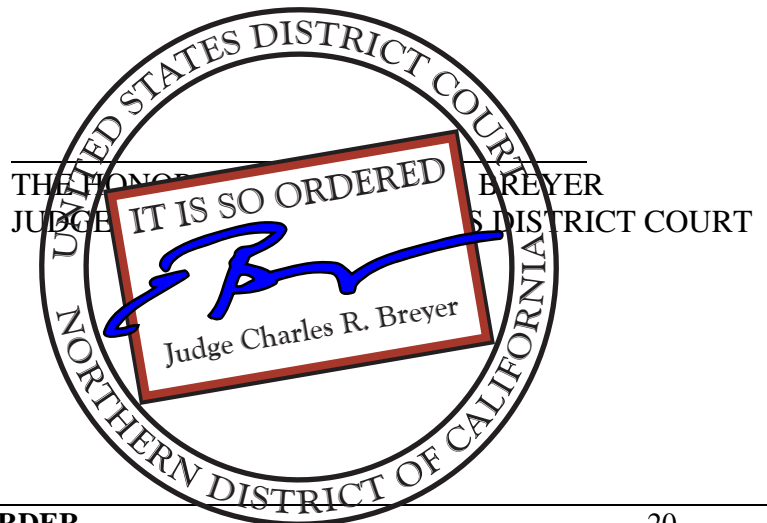
15 /s/ Joseph E. Floren
16 JOSEPH E. FLOREN

17
18
19 **ORDER**

20 Based on the foregoing stipulation of the parties, and good cause appearing,

21 **IT IS SO ORDERED.**

22
23 DATED: February 19, 2013



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