

1 (Attorneys of record on following page)

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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

JASON THOMAS, individually, and on)
behalf of all others similarly situated,)

Plaintiff,)

v.)

T.D. AMERITRADE, INC.)

Defendant.)

GREGORY O'DONNELL, individually,)
and on behalf of all others similarly)
situated,)

Plaintiff-)

Intervenor,)

v.)

T.D. AMERITRADE, INC.)

Defendant.)

Case No.: C 08-2397 WDB

CLASS ACTION

**STIPULATION AND ~~PROPOSED~~ ORDER
SETTING NEW DATES FOR MAILING
CLASS NOTICE PACKAGE AND FINAL
SETTLEMENT APPROVAL HEARING**

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and the Plaintiff Class

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and the Plaintiff Class

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22 | Attorneys for Defendant
TD Ameritrade, Inc.
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1 **WHEREAS**, this Court’s Order (1) Preliminarily Approving Class Action Settlement; (2)
2 Conditionally Certifying Settlement Class; (3) Authorizing Notice of Proposed Settlement of Class
3 Action; and (4) Establishing Procedure For Obtaining Final Approval of the Settlement was signed
4 on May 22, 2009;

5 **WHEREAS**, the Court’s Order set a schedule for the Class Notice Package mailing deadline,
6 the claims/opt-out period, the Motion for Final Approval filing date and the Final Settlement
7 Approval Hearing;

8 **WHEREAS**, the Claims Administrator was ordered to mail the Class Notice Package
9 twenty-one calendar days after service of the Notice of Preliminary Approval Order, or June 12,
10 2009;

11 **WHEREAS**, the Claims Administrator is unable to effectuate the mailing of the Class Notice
12 Package by June 12, 1009 due to difficulties processing the data provided to them by Defendant TD
13 Ameritrade, Inc.;

14 **WHEREAS**, the Claims Administrator’s difficulties are described in the attached
15 Declaration of Caryn Donly, Senior Project Administrator at Rust Consulting, Inc. (“Exhibit A”);

16 **WHEREAS**, the parties stipulate that the declaration attached hereto as Exhibit A is a true
17 and correct copy of a statement signed by Caryn Donly, Senior Project Administrator at Rust
18 Consulting, Inc.;

19 **WHEREAS**, in order to ensure a proper and correct mailing of the Class Notice Package,
20 the Claims Administrator requests that the mailing deadline be extended from June 12, 2009 to June
21 17, 2009;

22 **WHEREAS**, due to the delay in mailing the Class Notice Package, the parties seek leave of
23 Court to set the dates identified below before the mailing commences on June 17, 2009;

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1 **IT IS THEREFORE STIPULATED AND AGREED**, by and between the parties hereto, through
2 their attorneys of record, that the new schedule shall proceed as follows:

Date/Triggering Event:	Event:
June 17, 2009	Deadline for Claims Administrator to Mail the Notice and Claim Form (“Class Notice Package”).
July 27, 2009	Last day for the Claims Administrator to mail a postcard to class members who have not yet responded to the Class Notice to remind them of the August 17, 2009 deadline to submit a Claim Form, object to the Settlement, or opt out of the Settlement.
August 17, 2009	Last day for each class member to submit a timely Claim Form; or object to the Settlement by mailing an objection to the Court with copies to counsel for the parties and the Claims Administrator; or opt out of the class by mailing to the Claims Administrator a written request for exclusion from the class and the settlement.
September 9, 2009	Last day for the Claims Administrator to provide Plaintiffs’ counsel with a complete and accurate list of all class members who timely requested exclusion, and for the Plaintiffs’ counsel to file a motion for final approval. The notice period on the parties’ motion for final approval is shortened from the thirty-five (35) days required by Local Rule 7-2(a) to SIXTEEN (16) days. Opposition to final approval, if any, must be filed no later than SEVEN (7) calendar days prior to the hearing on final approval, and reply briefs must be filed no later than THREE (3) calendar days prior to the hearing.
September 25 _____, 2009 at 1:30 p.m.	Final Settlement Approval Hearing in Courtroom 4, U.S. District Court, 1301 Clay Street, Oakland, CA 94612

23
24 I, Molly A. Kuehn, attest that I have obtained concurrence from Julie Taylor and Michael
25 Singer in the filing of this Stipulation and Proposed Order Setting New Dates for Class Notice
26 Mailing and Final Settlement Approval. See N.D. General Order 45 § 10(b).

1 Dated: June 12, 2009

SCOTT COLE & ASSOCIATES, APC

2
3 By: Molly A. Kuehn
Molly A. Kuehn, Esq.
Attorneys for the Representative Plaintiff Thomas
4 and the Plaintiff Class

5 Dated: June 12, 2009

COHELAN KHOURY & SINGER

6
7 By: Michael D. Singer
Michael D. Singer, Esq.
Attorneys for the Plaintiff-Intervenor O'Donnell
8 and the Plaintiff Class

9 Dated: June 12, 2009

KEESAL, YOUNG & LOGAN, APC

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11 By: Julie Taylor
Julie Taylor, Esq.
Attorneys for Defendant

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15 **IT IS HEREBY ORDERED** that:

16 The dates for mailing of the Class Notice Package, the last day for filing a claim, opt-out, or
17 exclusion letter, and the Final Settlement Approval Hearing are set as listed above.

18
19 6/15/09

20 The Honorable Wayne D. Brazil
United States District Judge

