

1 GLANCY BINKOW & GOLDBERG LLP
2 LIONEL Z. GLANCY (S.B.#134180)
3 MICHAEL GOLDBERG (S.B.#196382)
4 1801 Avenue of the Stars, Suite 311
5 Los Angeles, California 90067
6 Telephone: (310) 201-9150
7 Facsimile: (310) 201-9160
8 E-mail: info@glancylaw.com

9 *Lead Counsel for Lead Plaintiff*

10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT CALIFORNIA

12 _____)
13 IN RE RACKABLE SYSTEMS, INC.) Case No. C-09-0222-CW
14 SECURITIES LITIGATION)
15 _____) CLASS ACTION

16 THIS DOCUMENT RELATES TO:)
17 ALL ACTIONS)
18 _____)

19 **JOINT STIPULATION AND ORDER REGARDING THE FILING**
20 **OF LEAD PLAINTIFFS' SUPPLEMENTAL SECOND AMENDED COMPLAINT**

21
22
23
24
25
26
27
28
No. C-09-0222-CW
STIPULATION AND [PROPOSED] ORDER REGARDING THE FILING OF LEAD
PLAINTIFFS' SUPPLEMENTAL SECOND AMENDED COMPLAINT

1 WHEREAS, on February 3, 2010, Lead Plaintiff Elroy Whittaker and named plaintiffs
2 Gerald Dull and Vincent Fusco (“Plaintiffs”) filed the Second Amended Complaint for
3 Violations of the Federal Securities Laws (“Second Amended Complaint”);

4 WHEREAS, on February 4, 2010, Lead Plaintiff Elroy Whittaker filed a motion to
5 withdraw as Lead Plaintiff and substitute plaintiffs Gerald Dull and Vincent Fusco as the new
6 Lead Plaintiffs;

7 WHEREAS, Defendants intend to file a motion to dismiss the Second Amended
8 Complaint;

9 WHEREAS, on February 23, 2010, the Court entered a Stipulation and Order Regarding
10 Scheduling Matters (*see* Docket Entry No. 52) (the “February 23 Scheduling Order”) providing
11 (i) that Defendants shall file their motion to dismiss the Second Amended Complaint on or
12 before April 2, 2010, (ii) that Lead Plaintiffs shall file their opposition to Defendants’ motion to
13 dismiss within 28 days of the filing of the motion to dismiss, *i.e.*, on or before April 30, 2010,
14 and (iii) that Defendants shall file their reply in support of the motion to dismiss within 14 days
15 of the filing of the Lead Plaintiffs’ opposition, *i.e.*, on or before May 14, 2010;

16 WHEREAS, on March 22, 2010, the Court entered an Order Granting the Motion Of
17 Lead Plaintiff Elroy Whittaker to Withdraw and Substitute New Lead Plaintiffs (*see* Docket
18 Entry No. 53), whereby the Court appointed plaintiffs Gerald Dull and Vincent Fusco as lead
19 plaintiffs in the above-captioned action, pursuant to 15 U.S.C. §78u-4(a)(3)(B);

20 WHEREAS, in light of the Court’s March 22, 2010 Order, the newly appointed Lead
21 Plaintiffs have prepared and will, contemporaneously with the filing of this Joint Stipulation,
22 file a Supplemental Second Amended Complaint, attached hereto as Exhibit 1, which
23 supplements the operative complaint to give effect to the Court’s March 22, 2010, Order;

24 WHEREAS, the parties have conferred and agree that: (i) Lead Plaintiffs’ Supplemental
25 Second Amended Complaint shall be the operative complaint in this Action (ii); Defendants
26 will file a motion to dismiss the Supplemental Second Amended Complaint within five days of
27
28

1 the Court's entry of Lead Plaintiffs' Supplemental Second Amended Complaint, and Lead
2 Plaintiffs correspondingly will be allowed five additional days, *i.e.*, 33 days, in which to file
3 their opposition to the motion to dismiss; (iii) Defendants shall file their reply to Lead
4 Plaintiff's opposition to the motion to dismiss within 14 days of the filing of Lead Plaintiffs'
5 opposition; and (iv), all references to the "Second Amended Complaint" in the February 23
6 Scheduling Order shall be deemed references to the "Supplemental Second Amended
7 Complaint."

8 NOW, THEREFORE, the undersigned parties hereby stipulate and agree, and
9 respectfully request that the Court enter an order, as follows:

10 1. Lead Plaintiffs' Supplemental Second Amended Complaint shall be the
11 operative complaint in this Action.

12 2. Defendants shall file a motion to dismiss Lead Plaintiffs' Supplemental
13 Second Amended Complaint within five days of the Court's entry of the Supplemental Second
14 Amended Complaint.

15 3. Lead Plaintiffs shall file their opposition to Defendants' motion to
16 dismiss the Supplemental Second Amended Complaint within 33 days of the filing of the
17 motion to dismiss.

18 4. Defendants shall file their reply in support of their motion to dismiss
19 within 14 days of the filing of Lead Plaintiffs' opposition to the motion to dismiss.

20 5. All references in the February 23 Scheduling Order to the "Second
21 Amended Complaint" shall be deemed references to the "Supplemental Second Amended
22 Complaint."

23 IT IS SO STIPULATED.

24 Dated: April 2, 2010

GLANCY BINKOW & GOLDBERG LLP

25 By: /s/ Michael Goldberg
26 Michael Goldberg (SB#188669)
27 1801 Ave. of the Stars, Suite 311
28 Los Angeles, CA, 90067
Tel: (310) 201-9150

Fax: (310) 201-9160

Lead Counsel for Plaintiffs and the Class

O'MELVENY & MYERS LLP

Dated: April 2, 2010

By: /s/ Pete Snow

Pete Snow

Meredith N. Landy

*Attorneys for Defendants Rackable Systems,
Inc., Thomas K. Barton and Madhu
Ranganathan*

I, Michael Goldberg, am the ECF User whose ID and password are being used to file this Stipulation and [Proposed] Order Regarding the Filing and Briefing of Plaintiffs' Supplemental Second Amended Complaint. In compliance with General Order 45, X.B., I hereby attest that Meredith N. Landy has concurred in this filing.

By: /s/ Michael Goldberg

Michael Goldberg

ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: April 5, 2010



The Honorable Claudia Wilken
United States District Judge