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16	UNITED STATES DISTRICT COURT		I	
17	NORTHERN DISTRIC	CT OF CAL	IFORNIA	I
18	OAKLAND	DIVISION		I
19				I
20	VIRGIL A. BAKER, CHARLES B. LOWERY, ELIZABETE LOWERY, ELLANORE		1:09-cv-05280-PJH	I
21	LARGENT and DAVID LARGENT, individually and on behalf of all others similarly	ADJOUR	TIPULATION AND ORDER RE: NING CASE DEADLINES;	1
22	situated,	-	ED] ORDER	I
23	Plaintiffs,	Judge:	Hon. Phyllis J. Hamilton	I
24				I
25	AEGIS WHOLESALE CORPORATION, RESIDENTIAL FUNDING COMPANY, LLC, COUNTRYWIDE HOME LOANS, INC., and			I
26	DOES 3 through 19 inclusive,			I
27	Defendants.			I
28				I
	JOINT STIPULATION AND ORDER RE: ADJOURNING	CASE DEADL	INES	I
	Case No. 4:09-cv-05280-PJH		Dockets.Justia.c	com

JOINT STIPULATION AND ORDER RE: ADJOURNING CASE DEADLINES

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Pursuant to Fed. R. Civ. P. 6(b), Plaintiffs Virgil A. Baker, Charles B. Lowery, Elizabete Lowery, Ellanore Largent and David Largent ("Plaintiffs"), and defendants named as "Countrywide Home Loans, Inc." ("CHL") and "Residential Funding Company, LLC" ("RFC") (collectively, "Defendants," and together, with Plaintiffs, the "Parties") hereby jointly stipulate and request that this Court adjourn the class certification briefing deadlines and hearing in this case pending the outcome of a class certification motion in a related case -- *Ralston v. Mortgage Investors Group, Inc.*, Case No. 08-CV-00536 JF (PSG) (N.D. Cal.) ("*Ralston*") -- that may impact this action. In support of this Joint Stipulation, the Parties state as follows:

- This is a putative class action brought by Plaintiffs against Defendants, asserting
 claims for fraudulent omissions against RFC and violation of the UCL against RFC and CHL in
 connection with payment option loans made by Aegis Wholesale Corporation ("Aegis") that were
 later purchased by CHL and/or RFC.
- *Ralston* and this case are two of several pending putative class actions brought by
 Plaintiffs' counsel asserting similar claims and legal theories for recovery in the California state
 and federal courts against various defendants, including Countrywide. *See Amparan v. Plaza Home Mortg., Inc.,* No. 5:07-cv-04498-JF (PSG) (N.D. Cal.); *Love v. First Mortgage Corp.,* No.
 G044630 (Cal. Court of Appeal); *Romero v. Countrywide Home Loans, Inc.,* No. 5:07-cv-04491JF (N.D. Cal.); *Thibault v. American Mortgage Network, Inc.,* No. H036620 (Cal. Court of
 Appeal).
- 21 3. In *Ralston*, Plaintiff seeks to certify a putative class that, like this case, purports to 22 encompass Aegis loans purchased by CHL. Indeed, in *Ralston*, plaintiff filed his class 23 certification motion on May 20, 2011, seeking to certify a class of more than 168,000 borrowers 24 who obtained payment option loans from more than 1,200 correspondent lenders (including Aegis) 25 that were later purchased by CHL (including the loans made by Aegis to Plaintiffs that are the 26 subject of this action). Thus, at this pre-certification stage, there is a potential overlap of putative 27 class loans and claims between this case and Ralston. 28
 - 1 JOINT STIPULATION AND ORDER RE: ADJOURNING CASE DEADLINES Case No. 4:09-cv-05280-PJH

- 4. By Order dated April 5, 2011 (Dkt. No. 82), this Court originally set September 7, 2011 as the deadline for Plaintiffs' class certification motion, October 5, 2011 as the deadline for Defendants' oppositions, October 26, 2011 as the deadline for Plaintiffs' reply submissions and November 16, 2011 as the date for the hearing on Plaintiff's class certification motion.
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5. Thereafter, in light of the then scheduled July 29, 2011 class certification hearing in *Ralston*, this Court extended the class certification briefing and hearing deadlines as follows: (a) December 22, 2011 for Plaintiffs' class certification motion, (b) January 31, 2012 for Defendants' oppositions, (c) February 28, 2012 for Plaintiffs' reply submissions, and (d) March 14, 2012 for the hearing on Plaintiffs' class certification motion. See Order (August 19, 2011) (Dkt. No. 88).

- 10 6. Since the entry of that scheduling order, the class certification hearing in *Ralston* has been continued to December 9, 2011 to provide time for an unsuccessful mediation in that case and account for Judge Fogel's schedule.
- 13 7. In light of the continuance of the class certification hearing in *Ralston*, and because 14 of the potential overlap between Ralston and this case, the Parties respectfully request that this 15 Court (a) adjourn the class certification briefing and hearing date, including the December 22, 16 2011 deadline for Plaintiffs' class certification motion, the January 31, 2012 deadline for 17 Defendants' oppositions, the February 28, 2012 deadline for Plaintiffs' reply submissions and the 18 March 14, 2012 class certification hearing date; and (b) set a new schedule providing for a May 4, 19 2012 deadline for Plaintiffs' class certification motion, a June 1, 2012 deadline for Defendants' 20 oppositions, a June 29, 2012 deadline for Plaintiffs' replies and a July 25, 2012 class certification 21 hearing date, subject to the Court's availability.

witness and rebuttal expert witness reports for class certification, such that they respectfully

request that this Court set March 16, 2012 as the deadline for the Parties to designate class

Parties to designation class certification rebuttal expert witnesses and serve their reports.

certification expert witnesses and serve their reports and April 13, 2012 as the deadline for the

Additionally, the Parties have also agreed to dates for the exchange of expert

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1	9. The Parties respectfully submit that there is good cause for this joint request. The
2	requested adjournment will conserve the Parties' and this Court's resources and avoid the
3	potentially unnecessary expenditure of attorneys' fees and other litigation costs while the parties in
4	<i>Ralston</i> litigate the class certification motion in that case. <i>See</i> Fed. R. Civ. P. 1 (federal rules
5	"should be construed and administered to secure the just, speed, and inexpensive determination of
6	every action and proceeding").
7	10. No party will be prejudiced by the requested extensions.
8	11. There have been two prior extensions or adjustments of the deadlines set forth in
9	this Joint Stipulation, as set forth above.
10	
11	WHEREFORE, for all the foregoing reasons, the Parties jointly request that this Court (a)
12	temporarily adjourn the class certification briefing and other deadlines, including the September 7,
13	2011 deadline for Plaintiffs' class certification motion, the October 5, 2011 deadline for
14	Defendants' oppositions, the October 26, 2011 deadline for Plaintiffs' reply submissions and the
15	November 16, 2011 class certification hearing date; and (b) set a new schedule providing for a
	March 16, 2012 deadline for the Parties to designate class certification expert witnesses and serve
16	their reports, an April 13, 2012 deadline for the Parties to designate class certification rebuttal
17	expert witnesses and serve their reports, a May 4, 2012 deadline for Plaintiffs' class certification
18	motion, a June 1, 2012 deadline for Defendants' oppositions, a June 29, 2012 deadline for
19	Plaintiffs' replies and a July 25, 2012 class certification hearing date.
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	- 3 – JOINT STIPULATION AND ORDER RE: ADJOURNING CASE DEADLINES

Case No. 4:09-cv-05280-PJH

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14	Dated: November 28, 2011	<u>/s/ Brooks R. Brown</u> Brooks R. Brown
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	JOINT STIPULATION AND ORDER RE: ADJOURN	ING CASE DEADLINES

Case No. 4:09-cv-05280-PJH

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	- 5 – JOINT STIPULATION AND ORDER RE: ADJOURNING CASE DEAD Case No. 4:09-cv-05280-PJH	DLINES

1	ORDER		
2	Upon consideration of the Parties' Stipulation and having good cause therefore, IT IS		
3	HEREBY ORDERED that (a) the existing class certification deadlines and hearing date in the		
4	case are adjourned; and (b) the new class certification briefing schedule and hearing date are as		
5	follows: The Parties shall designate class certification expert witnesses and serve their reports by		
6	March 16, 2012, the Parties shall designate class certification rebuttal expert witnesses and serve		
7	their reports by April 13, 2012, Plaintiffs shall file their class certification motion by May 4, 2012,		
8	Defendants' shall file their opposition submissions to the motion by June 1, 2012, Plaintiffs' shall		
9	file their reply submissions in further support of the motion by June 29, 2012, and the class		
10	certification hearing will be held at 9:00 A.M. on July 25, 2012.		
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12	IT IS ORDERED.		
13	Dated: December 20, 2011		
14	Dated: December 20, 2011		
15			
16	Z Judge Phyllis J. Hamilton		
17	Judge Flijter		
18	Judge TRAT		
19	DISTRICT		
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	- 6 – JOINT STIPULATION AND ORDER RE: ADJOURNING CASE DEADLINES Case No. 4:09-cv-05280-PJH		

1	ECF CERTIF	TICATION
2	Pursuant to General Order No. 45, § X.B., the filing attorney attests that he has obtained	
3	concurrence regarding the filing of this document from the signatories to the document.	
4		
5	Dated: November 28, 2011	Lee A. Weiss BERNS WEISS LLP 626 RXR Plaza
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7		By: <u>/s/ Lee A. Weiss</u>
8		Attorneys for Plaintiffs
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	- 7 - JOINT STIPULATION AND ORDER RE: ADJOURNING (Case No. 4:09-cv-05280-PJH	

1	PROOF OF SERVICE
2	I certify that this document filed through the ECF system will be sent electronically to the
3	registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will
4	be sent to those indicated as non registered participants on this November 28, 2011.
5	/s/ Lee A. Weiss Lee A. Weiss
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	JOINT STIPULATION AND ORDER RE: ADJOURNING CASE DEADLINES PENDING MEDIATION Case No. 4:09-cv-05280-PJH