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7 Attorneys for Defendant
 MERRILL LYNCH, PIERCE, FENNER & SMITH
 8 INCORPORATED, erroneously sued as "MERRILL LYNCH"

9 UNITED STATES DISTRICT COURT
 10 NORTHERN DISTRICT OF CALIFORNIA

12 REVEREND JEROME STRONG,
 13 Plaintiff,
 14 v.
 15 MERRILL LYNCH,
 16 Defendant.

Case No. C10-00031 SBA

**DEFENDANT MORGAN STANLEY'S EX
 PARTE REQUEST AND ORDER TO
 CONTINUE JANUARY 4, 2011
 PRETRIAL PREPARATION DUE DATE
 PENDING RULING ON MOTION FOR
 SUMMARY JUDGMENT**

Trial Date: February 7, 2011
 Time: 8:30 a.m.
 Courtroom: 1 (Fourth Floor)
 Judge: Hon. Sandra Brown Armstrong

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1 Defendant Merrill Lynch, Pierce, Fenner & Smith Incorporated ("Merrill Lynch")
2 hereby requests that the Court continue the pretrial preparation due date, currently set for January
3 4, 2011, pending the Court's ruling on Merrill Lynch's motion for summary judgment. or in the
4 alternative partial summary judgment, which the Court took under submission on December 17,
5 2010. Good cause exists to grant Merrill Lynch's request for the reasons outlined below:

6 1. On November 9, 2010, Merrill Lynch filed its motion for summary
7 judgment, or in the alternative partial summary judgment (the "Motion"), seeking summary
8 judgment in Merrill Lynch's favor on of all of Plaintiff Jerome Strong's ("Plaintiff") claims.

9 2. Plaintiff filed his opposition to Merrill Lynch's Motion on December 10,
10 2010.

11 3. On December 17, 2010 Merrill Lynch filed its reply in support of the
12 Motion.

13 4. On December 17, 2010 the Court took Merrill Lynch's Motion under
14 submission.

15 5. The current pretrial preparation due date is January 4, 2011.

16 6. Without the Court's ruling on Merrill Lynch's Motion, the parties cannot
17 know what, if any, issues will proceed to trial or what, if any, issues must be addressed in their
18 pretrial preparation.

19 7. For the reasons outline above, and to avoid the unnecessary expenditure of
20 party and judicial time and resources, Merrill Lynch hereby respectfully requests that the Court
21 continue the pretrial preparation due date pending the Court's ruling on Merrill Lynch's
22 potentially dispositive motion for summary judgment.

23 Dated: December 20, 2010

24 /s/ Michelle A. Rojas
25 MICHELLE A. ROJAS
26 ORRICK, HERRINGTON &
27 SUTCLIFFE LLP
28 Attorneys for Defendant
MERRILL LYNCH, PIERCE,
FENNER & SMITH
INCORPORATED

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[PROPOSED] ORDER


Good cause appearing therefore, IT IS HEREBY ORDERED THAT:

1. The January 4, 2011 pretrial preparation due date is hereby continued to **January 14, 2011**.

2. The January 11, 2011 deadline for filing motions in limine and objections to evidence is continued to **January 19, 2011**. Oppositions to motions in limine and objections to evidence are due by **January 24, 2011**, and replies are due by **January 27, 2011**. Each side is to file all of their motions in limine in a single memorandum, not to exceed ten (10) pages in length. Each side's opposition to motions in limine shall consist of a single brief not exceed ten (10) pages, and each side's reply in support of motions in limine shall consist of a single brief not exceed five (5) pages.

IT IS SO ORDERED.

1 Dated: December 27, 2010


Hon. Sandra Brown Armstrong
United States District Judge

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1 UNITED STATES DISTRICT COURT
2 FOR THE
3 NORTHERN DISTRICT OF CALIFORNIA

4 STRONG et al,

5 Plaintiff,

6 v.

7 MERRILL LYNCH et al,

8 Defendant.
9 _____/

10 Case Number: CV10-00031 SBA

11 **CERTIFICATE OF SERVICE**

12 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District
13 Court, Northern District of California.

14 That on December 28, 2010, I SERVED a true and correct copy(ies) of the attached, by placing
15 said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by
16 depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office
17 delivery receptacle located in the Clerk's office.

18 Jerome Strong
19 P.O. Box 21013
20 Piedmont, CA 94620

21 Dated: December 28, 2010

22 Richard W. Wieking, Clerk
23 By: LISA R CLARK, Deputy Clerk
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