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 YESENIA GUITRON and JUDI KLOSEK

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 15 UNITED STATES DISTRICT COURT  
 16 NORTHERN DISTRICT OF CALIFORNIA - OAKLAND DIVISION

18 YESENIA GUITRON and JUDI KLOSEK,  
 19 Plaintiffs,  
 20 vs.  
 21 WELLS FARGO BANK, N.A.; WELLS  
 FARGO & CO.; PAM RUBIO and DOES 1-20,  
 22 Defendants.  
 23

Case No. CIV-10-03461 CW [MEJ]

**PARTIES' THIRD STIPULATION AND  
 [PROPOSED] ORDER REGARDING  
 APPOINTMENT OF DISCOVERY  
 REFEREE**

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1           WHEREAS, the parties have previously stipulated to using Commissioner Richard Best  
2 (Ret.) as a discovery referee for the purpose of conducting depositions in this action, which the  
3 Court has approved (*see* Docket No. 43);

4           WHEREAS, the parties now have stipulated to using Commissioner Richard Best (Ret.) as  
5 a discovery referee for the purpose of conducting the depositions of additional witnesses noticed  
6 by Defendants;

7           WHEREAS, the parties have agreed that, in his role as discovery referee, Commissioner  
8 Best shall have the authority and powers to: (1) rule on objects made during the course of the  
9 depositions, (2) direct the witness to answer questions, and (3) rule on motions and other requests  
10 by the parties relating to the scope of and conduct of the depositions;

11           WHEREAS, the parties have agreed that Commissioner Best's rulings: (1) are subject to  
12 appeal to Magistrate Judge James, in the form of a joint letter, as set forth in Magistrate Judge  
13 James; Standing Order Regarding Discovery & Dispute Procedures, but that any such appeal must  
14 be filed within 10 calendar days following the ruling, and (2) must be in compliance with any  
15 previous orders of Magistrate Judge James;

16           WHEREAS, the parties have agreed that Defendants will pay Commissioner Best's fees  
17 and costs related to the performance of his role as discovery referee for the depositions noticed by  
18 Defendants;

19           THEREFORE, the parties, through their undersigned counsel below, hereby stipulate and  
20 agree, and respectfully request that the Court issue an order that:

21           1.       Commissioner Richard Best (Ret.) will serve as a discovery referee for the limited  
22 purpose of conducting the additional depositions noticed by Defendants in this action.  
23 Commissioner Best will serve in this role by either attending the deposition in person or in an "on  
24 call" capacity as outlined in his e-mail dated July 30, 2011. Commissioner Best's appearance  
25 shall be determined at Defendants' discretion.

26           2.       Commissioner Best shall have the authority and powers to: (1) rule on objects made  
27 during the course of the depositions, (2) direct the witness to answer questions, and (3) rule on  
28 motions and other requests by the parties relating to the scope of and conduct of the depositions.

1           3.       Commissioner Best's rulings shall be compliant and consistent with Magistrate  
2 Judge James' previous orders in this action, including her August 4, 2011, Discovery Order.

3           4.       Commissioner Best's rulings: (1) are subject to appeal to Magistrate Judge James,  
4 in the form of a joint letter, as set forth in Magistrate Judge James; Standing Order Regarding  
5 Discovery & Dispute Procedures, but that any such appeal must be filed within 10 calendar days  
6 following the ruling, and (2) must be in compliance with any previous orders of Magistrate Judge  
7 James.

8           5.       Defendants will pay Commissioner Best's fees and costs related to the performance  
9 of his role as discovery referee, as set forth above.

10 **IT IS SO STIPULATED THROUGH COUNSEL OF RECORD.**

11  
12 Dated: July 5, 2011

ALLEN MATKINS LECK GAMBLE  
MALLORY & NATSIS LLP

13  
14 By: /s/ Alexander Nestor  
15 ALEXANDER NESTOR  
16 Attorneys for Defendants  
17 WELLS FARGO BANK, WELLS FARGO  
18 & CO. AND PAM RUBIO

19 Dated: July 1, 2011

PERETZ & ASSOCIATES

20  
21 By: /s/ Yosef Peretz  
22 YOSEF PERETZ  
23 Attorneys for Plaintiffs  
24 YESENIA GUITRON and JUDI KLOSEK

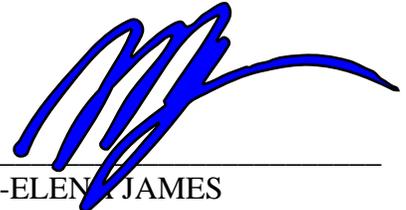
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**ORDER**

Pursuant to the parties' stipulation above, and good cause appearing therefor, **IT IS SO ORDERED.**

DATED: September 29, 2011 \_\_\_\_\_



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HON. MARIA-ELENA JAMES  
MAGISTRATE JUDGE