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12 Attorneys for Plaintiff JOHN KERR

13 UNITED STATES DISTRICT COURT
 14 NORTHERN DISTRICT OF CALIFORNIA
 15 OAKLAND DIVISION

16 KEVIN MARTIN, DAVID NORRIS, FRANK)
 STONE, individually and on behalf of all other)
 similarly situated,)
 17 Plaintiffs,)

Case No. 10-CV-04020 CW

18 v.)

**STIPULATION AND ORDER
 PERMITTING FILING OF
 CONSOLIDATED FIRST AMENDED
 COMPLAINT**

19 MERRILL LYNCH, PIERCE, FENNER &)
 SMITH, INCORPORATED, MERRILL LYNCH)
 & CO., INC., and DOES 1-20, inclusive,)
 20 Defendants.)
 21

22 JOHN KERR, individually and on behalf of all)
 other similarly situated,)
 23 Plaintiff,)

Case No. 11-CV-01654 CW

24 v.)

Judge: Hon. Claudia Wilken
 Courtroom: 2

25 MERRILL LYNCH & CO., INC., MERRILL)
 LYNCH, PIERCE, FENNER & SMITH,)
 26 INCORPORATED, and DOES 1-20, inclusive,)
 27 Defendants.)

Martin Complaint Filed: August 6, 2010
Kerr Complaint Filed: January 18, 2011

1 Plaintiffs KEVIN MARTIN, DAVID NORRIS, and FRANK STONE in case no.
2 10-CV-04020 CW, plaintiff JOHN KERR in case no. 11-CV-01654 CW and defendants MERRILL
3 LYNCH, PIERCE, FENNER & SMITH, INCORPORATED and MERRILL LYNCH & CO., INC.
4 in both cases, by and through their respective counsel, stipulate that plaintiffs may file in each of the
5 two cases that consolidated first amended complaint attached hereto as Exhibit A. By stipulating to
6 the filing of the consolidated first amended complaint, the Merrill Lynch Defendants in no way
7 admit any of the allegations it contains. Defendants' date to respond to the filed consolidated first
8 amended complaint is deferred until thirty (30) days following this Court's Order, if any, denying
9 Final Approval of the parties' pending settlement noted on the record at Dkt. #57 in case no. 10-CV-
10 04020 CW and Dkt. #15 in case no. 11-CV-01654 CW.

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13 DATED: July 21, 2011

BARTKO, ZANKEL, TARRANT & MILLER
A Professional Corporation

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15 /S/

16 By _____

Robert H. Bunzel
Attorneys for Plaintiffs
KEVIN MARTIN, DAVID NORRIS
and FRANK STONE

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19 DATED: July 21, 2011

DOSTART CLAPP & COVENEY, LLP

20 /S/

21 By _____

James F. Clapp
Attorneys for Plaintiff
JOHN KERR

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DATED: July 21, 2011

MUNGER TOLLES & OLSON, LLP

/S/

By _____
Victoria L. Boesch
Attorneys for Defendants
MERRILL LYNCH, PIERCE, FENNER & SMITH,
INCORPORATED and
MERRILL LYNCH & CO., INC.

IT IS SO ORDERED.

DATED: 7/28/2011


UNITED STATES DISTRICT COURT JUDGE