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11 Attorneys for Defendants
 12 VIVUS, INC., LELAND F. WILSON, and
 WESLEY W. DAY, Ph.D.
 13

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

18 MERLE KOVTUN, Individually and on
 Behalf of Others Similarly Situated,,
 19 Plaintiff,
 20
 v.
 21 VIVUS, INC., LELAND F. WILSON, and
 22 WESLEY W. DAY, PH.D.,
 23 Defendant.

Case No. 4:10-cv-04957-PJH

**STIPULATION AND [PROPOSED]
 ORDER EXTENDING PAGE LIMITS FOR
 BRIEFING ON DEFENDANTS' MOTION
 TO DISMISS AMENDED COMPLAINT
 AS MODIFIED BY THE COURT**
 The Honorable Phyllis J. Hamilton

1 Pursuant to Local Rule 7-12, lead plaintiff John Ingram and defendants VIVUS, Inc.,
2 Leland F. Wilson, and Wesley W. Day, Ph.D. (collectively, the “Parties”), through their
3 undersigned counsel, hereby stipulate to and seek the Court’s approval of an order extending the
4 page limits for briefing on defendants’ anticipated motion to dismiss the amended complaint.

5 **RECITALS**

6 WHEREAS on April 4, 2011, lead plaintiff timely filed the Amended Class Action
7 Complaint for Violations of the Federal Securities Laws (Dkt. No. 25) (the “Amended
8 Complaint”); and

9 WHEREAS, pursuant to the Court’s February 3, 2011 Order setting a schedule for the
10 filing of, and response to, the Amended Complaint (Dkt. No. 23), the deadline for defendants to
11 move to dismiss the Amended Complaint is June 3, 2011; and

12 WHEREAS, the defendants believe that, because of the length of the Amended
13 Complaint, defendants will need additional pages in their opening and reply briefs in support of
14 their anticipated motion to dismiss to fully respond to the allegations; and

15 WHEREAS, lead plaintiff does not oppose an extension of the page limits for defendants’
16 opening and reply briefs on the anticipated motion to dismiss to 32 and 22 pages, respectively;

17 WHEREAS, defendants do not oppose a corresponding extension of the page limit for
18 lead plaintiff’s opposition to defendants’ anticipated motion to dismiss to 35 pages;

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21 **STIPULATION**

22 IT IS THEREFORE STIPULATED AND AGREED by the Parties, through their
23 respective counsel of record, that, subject to the Court’s approval, that the page limits for the
24 briefing on defendants’ anticipated motion to dismiss will be as follows:

25 (a) defendants’ opening brief shall be not longer than 32 pages; and

26 (b) lead plaintiff’s opposition to defendants’ motion to dismiss shall be not longer than 35
27 pages; and

28 (c) defendants reply in support of the motion to dismiss shall be not longer than 22 pages.

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SO STIPULATED.

DATED: May 24, 2011

HOGAN LOVELLS US LLP

By /s/ Howard S. Caro
HOWARD S. CARO

Attorneys for Defendants
VIVUS, INC., LELAND F. WILSON, AND WESLEY
W. DAY, PH.D.

DATED: May 24, 2011

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By /s/ Azra Mehdi
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1 I, Howard S. Caro, am the ECF User whose ID and password are being used to file this
2 Stipulation And [Proposed] Order Extending Page Limits For Briefing on Defendants' Motion To
3 Dismiss Plaintiff's Amended Complaint. In compliance with General Order 45, X.B., I hereby
4 attest that Azra Mehdi has concurred in this filing.

5
6 /s/ Howard S. Caro
7
8 HOWARD S. CARO

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11 * * *

12 **ORDER**

13 PURSUANT TO STIPULATION, and good cause appearing, the page limits for the
14 briefing on defendants' anticipated motion to dismiss will be as follows:

- 15 (a) defendants' opening brief shall be not longer than ³⁰~~32~~ pages; and
- 16 (b) lead plaintiff's opposition to defendants' motion to dismiss shall be not longer than ³⁰~~35~~
17 pages; and
- 18 (c) defendants reply in support of the motion to dismiss shall be not longer than ²⁰~~22~~ pages.

19 IT IS SO ORDERED.

20 DATED: 5/25/11

