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26 Attorneys for Defendant
 27 Morgan Stanley & Co., Inc.

28 UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

29 GARY E. AFFONSO,
 30
 31 Plaintiff,
 32
 33 v.

34 METROPOLITAN LIFE INSURANCE
 35 COMPANY; MORGAN STANLEY SMITH
 36 BARNEY LLC (APPEARING AS MORGAN
 37 STANLEY & CO., INC.); and MORGAN
 38 STANLEY & CO., INCORPORATED, BASIC
 39 AND SUPPLEMENTAL LIFE INSURANCE
 40 PLAN: 501,

41 Defendants.

Case No. C 10-05054 PJH

**STIPULATION AND [~~PROPOSED~~]
 ORDER CONTINUING BRIEFING AND
 HEARING SCHEDULE FOR
 DISPOSITIVE MOTIONS**

1 IT IS HEREBY STIPULATED BY AND BETWEEN THE PARTIES:

2 Due to plaintiff Gary E. Affonso's ("plaintiff") pending motion for reconsideration
3 regarding abuse of discretion review (ECF No. 96), plaintiff and defendants Metropolitan Life
4 Insurance Company ("MetLife"), Morgan Stanley Benefits Plan ("Plan"), and Morgan Stanley
5 & Co., Inc. ("Morgan Stanley") (collectively "defendants"), hereby respectfully request a
6 continuance of the briefing and hearing schedule for dispositive motions.

7 The parties jointly propose the following schedule:

- 8
- 9 • The parties' cross-motions shall be heard on January 11, 2012 at 9:00 a.m., or as
10 soon thereafter as is convenient to the Court's calendar. The parties understand that
11 this hearing date may need to be changed because the proposed briefing schedule
12 below may not allow for the related briefing to be completed in sufficient time prior
13 to the new hearing date. In that instance, the parties will cooperate in selecting a
14 mutually agreeable hearing date.
 - 15 • The briefing schedule shall be modified, under the alternative schedules:

16 If plaintiff's motion for reconsideration is denied and the standard
of review remains abuse of discretion per the July 6, 2011 Order:

- 17 • Defendants shall have 21 days from the date of the Court's order denying the
18 motion for reconsideration to file their joint cross-motion and opposition to
19 plaintiff's motion for summary judgment;
- 20 • Plaintiff shall then have 21 days to file his opposition to defendants' cross-
21 motion and his reply in support of his motion for summary judgment;
- 22 • Defendants shall then have 14 days to file their joint reply brief.

23 If plaintiff's motion for reconsideration is granted, and the standard
24 of review is changed from abuse of discretion to *de novo*:

- 25 • Plaintiff shall have 21 days from the date of the Court's order granting the
26 motion for reconsideration to withdraw his currently pending motion for
27 summary judgment (ECF No. 91), and file a new/substituted motion for
28 summary judgment;

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- Defendants shall then have 21 days to file their joint cross-motion and opposition to plaintiff’s motion for summary judgment;
- Plaintiff shall then have 21 days to file his opposition to defendants’ cross-motion and reply in support of his motion for summary judgment;
- Defendants shall then have 14 days to file their joint reply brief.

SO STIPULATED AND RESPECTFULLY REQUESTED:

DATED: September 26, 2011 GUY KORNBLUM & ASSOCIATES

By: /s/ Walter G. Crump (as authorized on 9/26/2011)
 Walter G. Crump
 Attorneys for Plaintiff
 Gary E. Affonso

DATED: September 26, 2011 SEDGWICK LLP

By: /s/ Rebecca A. Hull
 Rebecca A. Hull
 Erin A. Cornell
 Attorneys for Defendants
 Metropolitan Life Insurance Company; Morgan Stanley
 Benefits Plan

DATED: September 26, 2011 LAW OFFICES OF STEVEN A. ELLENBERG

By: /s/ Mark Boennighausen (as authorized on 9/25/2011)
 Mark Boennighausen
 Attorneys for Defendant
 Morgan Stanley & Co., Inc.

ORDER

It is so ordered. The briefing schedule set forth in the parties’ stipulation is adopted, and the hearing on the cross-motions for judgment shall be held on January 11, 2012 at 9:00 a.m.

DATED: 9/27/11

 HONORABLE PHYLLIS J. HAMILTON
 UNITED STATES DISTRICT COURT

