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UNITED STATES DISTRICT COURT

Northern District of California

Oakland Division

JAMES BLACKMON, et al.,

No. C 11-02853 SBA (LB)

Plaintiffs,

v.

GLENN TOBIAS, et al.,

**AMENDED NOTICE OF REFERRAL
AND ORDER RE DISCOVERY
PROCEDURES**Defendants.
_____ /

TO ALL PARTIES AND COUNSEL OF RECORD:

On October 21, 2011, the parties submitted a letter brief to the undersigned in which they sought judicial intervention to resolve a discovery dispute. Joint Letter, ECF No. 78. According to the letter, Plaintiffs served a third-party subpoena on Bank of America that seeks certain banking records. *Id.* at 1. Defendants objected to the subpoena's scope on, among other things, overbreadth, relevance, and privacy grounds. *Id.* at 2-3. They also argued that discovery concerning the banking records is premature until Judge Armstrong rules on their motion to dismiss, which is scheduled for hearing on January 12, 2012. *Id.* at 2.

Two days ago, Judge Armstrong resolved the question whether discovery is premature: she ruled that a stay on discovery was not warranted. 11/15/2011 Order, ECF No. 80. She also referred the parties' remaining arguments (i.e., Defendants' challenges to the scope of the discovery sought) to the undersigned. *Id.* at 2. In that regard, the court directs the parties to comply with the procedures for addressing discovery disputes set forth in the undersigned's standing order (attached). Rather

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NOTICE OF REFERRAL AND ORDER

1 than meeting-and-conferring in person, however, the parties may do so telephonically. (Meeting-
2 and-conferring over email is not sufficient.) But, if the parties choose to do so, they must make a
3 contemporaneous record of their meeting using a court reporter or a digital recording (with a tape
4 recorder or the equivalent). The purpose of this is to give the court the ability – if necessary – to
5 review the sufficiency of the telephonic meet-and-confer. If the parties elect to use a recording
6 instead of a court reporter, and if the court determines that a review of the recording is appropriate,
7 the parties must provide a transcript of the recording to the court with the recording itself. (At least
8 initially, an in-house transcript of the recording – as opposed to one prepared by a court reporter –
9 will be sufficient, but the court may ask for a formal transcript.)

10 If the parties are unable to resolve the disagreement, they must file a new joint letter instead of a
11 formal motion. After reviewing the joint letter, the Court will evaluate whether further proceedings
12 are necessary, including any further briefing or argument.

13 This disposes of ECF Nos. 78, 79.

14 **IT IS SO ORDERED.**

15 Dated: November 17, 2011


LAUREL BEELER
United States Magistrate Judge

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