

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

Clear Form

ASM CAPITAL, LP, et al.

CASE NO. C 11-4825 PJH

Plaintiff(s),

v.

STIPULATION AND [~~PROPOSED~~]
 ORDER SELECTING ADR PROCESS

EDWARD H. OKUN, et al.,

Defendant(s).

_____ /

Counsel report that they have met and conferred regarding ADR and have reached the following stipulation pursuant to Civil L.R. 16-8 and ADR L.R. 3-5:

The parties agree to participate in the following ADR process:

Court Processes:

- Non-binding Arbitration (ADR L.R. 4)
- Early Neutral Evaluation (ENE) (ADR L.R. 5)
- Mediation (ADR L.R. 6)

(Note: Parties who believe that an early settlement conference with a Magistrate Judge is appreciably more likely to meet their needs than any other form of ADR, must participate in an ADR phone conference and may not file this form. They must instead file a Notice of Need for ADR Phone Conference. See Civil Local Rule 16-8 and ADR L.R. 3-5)

Private Process:

- Private ADR *(please identify process and provider)* _____

SEE ATTACHMENT

The parties agree to hold the ADR session by:

- the presumptive deadline *(The deadline is 90 days from the date of the order referring the case to an ADR process unless otherwise ordered.)*
- other requested deadline _____

Dated: 12/21/11

/s/ Robert L. Brace
 Attorney for Plaintiff

Dated: 12/21/11

/s/ Debra Sturmer
 Attorney for Defendant

When filing this document in ECF, please be sure to use the appropriate ADR Docket Event, e.g., "Stipulation and Proposed Order Selecting Early Neutral Evaluation."

~~[PROPOSED]~~ ORDER

Pursuant to the Stipulation above, the captioned matter is hereby referred to:

- Non-binding Arbitration
- Early Neutral Evaluation (ENE)
- Mediation
- Private ADR

Deadline for ADR session

- 90 days from the date of this order.
- other _____

IT IS SO ORDERED.

Dated: 12/22/11 _____



JUDGE

ATTACHMENT

The ASM litigation was filed following the Court's denial of Class Certification in *Hunter, et al. v. Citibank, et al.*, USDC Case No. C 09-2079-JW. The ASM plaintiffs were all members of the putative class in *Hunter v. Citibank*, who are now pursuing their individual aiding and abetting claims against Silicon Valley Law Group ("SVLG"). Two private mediations were conducted in the *Hunter v. Citibank* matter, at which the interests of the ASM plaintiffs were represented by the putative class representatives and Hollister & Brace as counsel for the putative class and SVLG was represented by Lerch Sturmer LLP. The most recent mediation was held in July, 2011 before George Fisher, Esq., who was appointed by Judge Ware. The first mediation was held in September 2010 before retired Justice Edward Panelli, who was selected by the parties. As a result of these two mediations and the ongoing dialogue between counsel for the ASM plaintiffs and SVLG, the parties jointly believe that further mediation will not be fruitful.