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7 UNITED STATES DISTRICT COURT
 8 NORTHERN DISTRICT OF CALIFORNIA

9 MICHAEL TOTH, Individually and on Behalf)
 10 of All Others Similarly Situated,)

11 Plaintiff(s),)

12 vs.)

13 ENVIVIO, INC., et al.,)

14 Defendant(s).)

Case No. C 12-5636 (CW)

CLASS ACTION

) JOINT STIPULATION AND ~~PROPOSED~~
) ORDER CONSOLIDATING CASES AND
) DEFERRING RESPONSES TO
) COMPLAINTS PENDING MOTION
) PRACTICE IN CONNECTION WITH
) REMOVAL AND REMAND

15 DATE ACTION FILED: 10/19/12
 (Removed 11/02/12)

28

1 WHEREAS, this action is a putative class action for violations of §§11 and 15 of the
2 Securities Act of 1933 that was initiated by Michael Toth (“Toth”) upon the filing of a Complaint
3 (the “Toth Complaint”) in the San Mateo Superior Court on October 19, 2012;

4 WHEREAS, Joe M. Wiley (“Wiley”) filed a Complaint for Violation of §§11 and 15 of the
5 Securities Act of 1933 (the “Wiley Complaint”) in the San Mateo Superior Court on October 5,
6 2012;

7 WHEREAS, on November 2, 2012, defendants removed the *Toth* and *Wiley* actions to
8 federal court, with the *Toth* action assigned to this Court and the *Wiley* action assigned to the
9 Honorable Charles R. Breyer, Case No. C 12-5637 (CRB);

10 WHEREAS, plaintiffs have indicated that they contest the validity of removal jurisdiction
11 and that they intend to move for remand (which defendants intend to oppose); and

12 WHEREAS, the parties believe that the cases should be related and consolidated for the
13 purpose of the motion to remand and that a schedule should be set for the filing of a consolidated
14 complaint and defendants’ responses following either a denial of the motion to remand or a remand
15 to state court;

16 NOW, THEREFORE, in consideration of the foregoing, and pursuant to Rule 16(c) of the
17 Federal Rules of Civil Procedure, Civil Local Rules 7-12 and 23-1(b), and Manual for Complex
18 Litigation, Fourth §§11.12, 11.21 and 31 (2004), the parties stipulate, and the Court hereby orders, as
19 follows:

20 **CONSOLIDATION OF RELATED CASES**

21 1. The *Wiley* and *Toth* actions are related. All related actions that are subsequently filed
22 in, or transferred to, this District shall be consolidated into this action for pretrial purposes. This
23 Order shall apply to every such related action, absent order of the Court. A party that objects to such
24 consolidation, or to any other provision of this Order, must file an application for relief from this
25 Order within 30 days after the date on which a copy of the Order is mailed to the party’s counsel,
26 pursuant to Paragraph 6, *infra*.

27 2. This Order is entered without prejudice to the rights of any party to apply for
28 severance of any claim or action, for good cause shown.

1 3. The docket in Civil Action No. C 12-5636 (CW) shall constitute the Master Docket
2 for this action.

3 4. Every pleading filed in the consolidated action shall bear the following caption:

4 UNITED STATES DISTRICT COURT
5 NORTHERN DISTRICT OF CALIFORNIA

6 In re ENVIVIO, INC. SECURITIES) Master File No. C 12-5636 (CW)
7 LITIGATION)

8)
9) CLASS ACTION

9 _____)
10 This Document Relates to:)
11)
12)

12 5. The file in Civil Action No. C 12-5636 (CW) shall constitute a Master File for every
13 action in the consolidated action. When the document being filed pertains to all actions, the phrase
14 “All Actions” shall appear immediately after the phrase “This Document Relates To:.” When a
15 pleading applies only to some, not all, of the actions, the document shall list, immediately after the
16 phrase “This Document Relates To:,” the docket number for each individual action to which the
17 document applies, along with the last name of the first-listed plaintiff in said action.

18 6. The parties shall file an Administrative Motion to Consider Whether Cases Should Be
19 Related pursuant to Civil L.R. 3-12 whenever a case that should be consolidated into this action is
20 filed in, or transferred to, this District. If the Court determines that the case is related, the clerk shall:

- 21 (a) place a copy of this Order in the separate file for such action;
- 22 (b) serve on plaintiff’s counsel in the new case a copy of this Order;
- 23 (c) direct that this Order be served upon defendants in the new case; and
- 24 (d) make the appropriate entry in the Master Docket.

25 7. Any counsel of record for a party in this action who is not a member of the Bar of this
26 District is hereby admitted to practice *pro hac vice* in this action.
27
28

1 8. Counsel for the parties shall notify their clients of their document preservation
2 obligations pursuant to the federal securities laws and the Local Rules.

3 **PLEADINGS AND MOTIONS**

4 9. Defendants are not required to respond to the existing complaints until after the
5 remand motion is decided and plaintiff files an amended complaint in whichever court this action
6 resides following the motion.

7 10. Defendants are not required to respond to the complaint in any action consolidated
8 into this action, other than a consolidated complaint or a complaint.

9 11. Plaintiff shall file a consolidated complaint within 60 days after the motion to remand
10 is decided. The consolidated complaint shall be the operative complaint and shall supersede all
11 complaints filed in any of the actions consolidated herein.

12 12. Defendants shall respond to the consolidated complaint within 60 days after service.
13 If defendants file any motions directed at the consolidated complaint, the opposition and reply briefs
14 shall be filed within 60 days and 30 days, respectively, of that response.

15 DATED: November 26, 2012

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Company, L.L.C.

1 I, Christopher P. Seefer, am the ECF User whose ID and password are being used to file this
2 STIPULATION AND [PROPOSED] CONSOLIDATED ORDER. In compliance with Civil Local
3 Rule 5-1(i)(3), I hereby attest that David M. Furbush and Norman J. Blears have concurred in this
4 filing.

5 s/ Christopher P. Seefer
6 CHRISTOPHER P. SEEFER

7 * * *

8 **ORDER**

9 PURSUANT TO STIPULATION, IT IS SO ORDERED. A single motion to remand
10 shall be filed on or before 12/13/12 and noticed for hearing.

11 DATED: 11/28/2012

12 
13 THE HONORABLE CLAUDIA WILKEN
14 UNITED STATES DISTRICT JUDGE