

1 JOHN T. MULLAN (SBN 221149)

E-mail jtm@rezlaw.com

2 MICHELLE G. LEE (SBN 266167)

E-mail mgl@rezlaw.com

3 MEGHAN F. LOISEL (SBN 291400)

4 E-mail mfl@rezlaw.com

RUDY, EXELROD, ZIEFF & LOWE, LLP

5 351 California Street, Suite 700

San Francisco, CA 94104

6 T: (415) 434-9800 / F: (415) 434-0513

7 JAMES M. FINBERG (SBN 114850)

8 E-mail jfinberg@altshulerberzon.com

EILEEN B. GOLDSMITH (SBN 218029)

9 E-mail egoldsmith@altshulerberzon.com

MEREDITH A. JOHNSON (SBN 291018)

10 E-mail mjohnson@altshulerberzon.com

ALTSHULER BERZON LLP

11 177 Post Street, Suite 300

12 San Francisco, CA 94108

T: (415) 421-7151 / F: (415) 362-8064

13 *Attorneys for Plaintiff, DAVID MCDONALD,*

14 *on behalf of himself and all others similarly situated*

15 *Attorneys for Defendants on following page.*

16 **UNITED STATES DISTRICT COURT**
 17 **NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION**

18 DAVID MCDONALD, on behalf of himself
 and all others similarly situated,

19 Plaintiffs,

20 v.

21 CP OPCO, LLC, dba CLASSIC PARTY
 22 RENTALS; INSPERITY PEO SERVICES,
 23 LLC; APOLLO GLOBAL MANAGEMENT,
 24 PARTNERSHIP, L.P.; APOLLO
 25 FRANKLIN PARTNERSHIP, L.P.;
 26 APOLLO CREDIT OPPORTUNITY FUND
 27 III AIV I LP; APOLLO SK STRATEGIC
 INVESTMENTS, L.P.; APOLLO SPECIAL
 OPPORTUNITIES MANAGED
 ACCOUNT, L.P.; APOLLO ZEUS
 STRATEGIC INVESTMENTS, L.P.; and
 DOES 1-20,

28 Defendants. /

Case No. CV 4:17-cv-04915-HSG

**REVISED STIPULATION RE CASE
 SCHEDULE, SELECTION OF ADR
 PROCESS, AND ORDER**

Judge: Hon. Judge Haywood S. Gilliam, Jr.
 Second Amended Complaint: November 27, 2017
 Trial Date: None Set

1 MARK JACOBS, SBN 208945
mjacobs@fisherphillips.com
2 CHRISTOPHER M. AHEARN, SBN 239089
cahearn@fisherphillips.com
3 **FISHER & PHILLIPS LLP**
2050 Main Street, Suite 1000
4 Irvine, California 92614
Telephone: (949) 851-2424
5 Facsimile: (949) 851-0152

6 *Attorneys for Defendant INSPERITY PEO SERVICES, L.P.*

7
8 MICHELLE C. DOOLIN (179445)
mdoolin@cooley.com
SUMMER J. WYNN (240005)
9 swynn@cooley.com
10 **COOLEY LLP**
4401 Eastgate Mall
San Diego, CA 21010
11 Telephone: (858) 550-6000
Facsimile: (858) 550-6420
12

13 ANDREW J. EHRLICH
aehrlich@paulweiss.com
GREGORY F. LAUFER
14 glaufer@paulweiss.com
15 **PAUL, WEISS, RIFKIND, WHARTON &
GARRISON LLP**
1285 Avenue of the Americas
16 New York City, NY 10019-6064
Telephone: (212) 373-3000
17

18 *Attorneys for Defendant, APOLLO GLOBAL MANAGEMENT, LLC*
19
20
21
22
23
24
25
26
27
28

Plaintiff David McDonald (“Plaintiff”) and Defendants Insperity PEO Services, L.P. (“Defendant Insperity”), Defendant Apollo Global Management, LLC (“AGM”), Defendant Apollo Centre Street Partnership, L.P.; Defendant Apollo Franklin Partnership, L.P.; Defendant Apollo Credit Opportunity Fund III AIV I LP; Defendant Apollo SK Strategic Investments, L.P.; Defendant Apollo Special Opportunities Managed Account, L.P.; and Defendant Apollo Zeus Strategic Investments, L.P. (collectively, along with AGM, “Apollo Defendants”)¹ hereby submit this case schedule and stipulation regarding ADR, following an initial Case Management Conference before the Court held on January 9, 2018.

I. MOTIONS

Apollo Defendants filed a motion to dismiss the Second Amended Complaint under FRCP 12(b)(6) (Dkt. No. 66). Plaintiff has filed an opposition to the motion (Dkt. No. 69). The hearing on the motion is set for April 5, 2018.

1. Plaintiff’s Motions

Plaintiff intends to file a motion for class certification after conducting discovery regarding issues common to the class. Plaintiff reserves the right to file a motion for summary judgment or partial summary judgment at a later date. Plaintiffs will move for a default judgment against Defendant CP OpCo.

2. Defendants’ Motions

The Apollo Defendants reserve the right to file a motion to dismiss any subsequent amended complaint filed by Plaintiff; a motion to dismiss any crossclaim or third-party claim; a motion for summary judgment; and any other appropriate motion.

Defendant Insperity reserves its right to file a motion pursuant to Rule 12(c) of the Federal Rules of Civil Procedure, to dismiss Plaintiff’s claims. Insperity anticipates filing a summary judgment motion.

¹ Defendant Insperity and the Apollo Defendants are referred to collectively as “Defendants.” This excludes Defendant CP OpCo, which has not appeared in this action.

1 **II. SETTLEMENT AND ADR**

2 The Parties intend to mediate this case with Magistrate Judge Corley, depending upon her
3 availability, and seek to schedule mediation in late April or in May 2018.

4 **III. SCHEDULING**

5 The parties propose the following schedule, subject to the Court's availability:

6 Motion for Class Certification

7 Opening brief filed by: August 30, 2018

8 Opposition brief: September 27, 2018

9 Reply brief: October 11, 2018

10 Hearing: October 25, 2018

11
12 Close of Fact Discovery

13 January 31, 2019

14
15 Motions for Summary Judgment

16 Opening brief(s) no later than: February 15, 2019

17 Opposition brief(s): March 15, 2019

18 Reply brief(s): March 29, 2019

19 Hearing: April 11, 2019

20
21 Trial Dates

22 Pre-trial Conference: June 10, 2019

23 Trial begins: June 24, 2019

24 ///

25 ///

26 ///

27 ///

28 ///

1 Dated: January 17, 2018

Respectfully submitted,

2 RUDY, EXELROD, ZIEFF & LOWE, L.L.P.
3 ALTSHULER BERZON LLP

4 By: /s/ John T. Mullan

JOHN T. MULLAN
MICHELLE G. LEE
MEGHAN F. LOISEL

6 ALTSHULER BERZON
7 JAMES M. FINBERG
8 EILEEN B. GOLDSMITH
9 MEREDITH A. JOHNSON
10 Attorneys for Plaintiff
DAVID MCDONALD, on behalf of
himself and all others similarly situated

11 Dated: January 17, 2018

Respectfully submitted,

12 PAUL, WEISS, RIFKIND, WHARTON &
13 GARRISON LLP
COOLEY LLP

14 By: /s/ Gregory F. Laufer

15 ANDREW J. EHRLICH (appearing *pro*
16 *hac vice*)
GREGORY F. LAUFER (appearing *pro*
17 *hac vice*)

18 COOLEY LLP
19 MICHELLE C. DOOLIN
SUMMER J. WYNN
20 Attorneys for Defendant
21 APOLLO GLOBAL MANAGEMENT,
LLC

22 Dated: January 17, 2018

Respectfully submitted,

23 FISHER & PHILLIPS LLP

24 By: /s/ Christopher M. Ahearn

25 BORIS SORSHER
26 CHRISTOPHER M. AHEARN
27 Attorneys for Defendant
28 INSPIRITY PEO SERVICES, L.P.

ECF ATTESTATION

Pursuant to Civil L.R. 5-1(i)(3), the filer attests that concurrence in the filing of this document has been obtained from each of the other signatories thereto.

Executed this 17th day of January 2018, at San Francisco, California.

/s/ John T. Mullan

JOHN T. MULLAN

CASE MANAGEMENT ORDER

The above REVISED STIPULATION RE SCHEDULE, SELECTION OF ADR PROCESS & PROPOSED ORDER is approved and all parties shall comply with its provisions. The parties are referred to Magistrate Judge Corley for a settlement conference. IT IS SO ORDERED.

DATED: January 24, 2018


HON. HAYWOOD S. GILLIAM, JR.
DISTRICT COURT JUDGE