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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

John Rezner,)
)
William E. Gustashaw,)
)
Plaintiffs,)
)
v.)
)
Bayerische Hypo-Und Vereinsbank, AG, a)
corporation, et al.,)
)
Defendants.)

Case No. CV-06-2064 (JW)
Case No. CV-08-3479 (JW)

STIPULATION AND [Proposed] ORDER REGARDING RESCHEDULING CASE MANAGEMENT CONFERENCE AND HEARING ON MOTION TO DISMISS

1 This Stipulation is entered into by and between Defendants Bayerische Hypo- und
2 Vereinsbank AG and HVB U.S. Finance Inc. (f/k/a HVB Structured Finance, Inc.) (collectively
3 “HVB”) and Plaintiff William E. Gustashaw, Jr. (“Plaintiff”), through their respective counsel of
4 record.

5 **RECITALS**

6 A. Currently pending before the Court are two cases which have been ordered related
7 – the instant case *Gustashaw v. Bayerische Hypo- Und Vereinsbank, A.G. et al.*, Case No. CV-08-
8 3479 (JW) and *Rezner v. Bayerische Hypo- Und Vereinsbank, A.G. et al.*, Case No. CV-062064
9 JW (RS)

10 B. Plaintiffs in both the *Rezner* and *Gustashaw* cases are represented by William M.
11 Lukens and Jennifer L. Jonak of the Lukens Law Group while HVB, the defendant in both
12 actions, is primarily represented by Kathryn Keneally and Joseph Park of Fulbright & Jaworski’s
13 New York and Los Angeles offices, respectively.

14 C. The following matters are currently scheduled to be addressed by the Court on the
15 following dates in the following actions:

<u>Case</u>	<u>Matter</u>	<u>Time/Date</u>
<i>Gustashaw</i>	Case Management Conference	10 a.m., February 9, 2009
<i>Rezner</i>	Pretrial Conference	11 a.m., February 23, 2009
<i>Gustashaw</i>	Hearing on Motion to Dismiss	9 a.m., March 9, 2009

20
21 D. One of the parties’ litigation counsel has a conflict with the February 23, 2009
22 date, but all counsel are available on March 9, 2009.

23 E. Given: (1) that the *Rezner* and *Gustashaw* Actions are related; (2) the identity of
24 counsel for the parties in both actions; (3) the unavailability of one of the litigation counsel on
25 February 23, 2009; (4) the availability of counsel on March 9, 2009, the currently scheduled date
26 for the hearing on HVB’s Motion to Dismiss the *Gustashaw* action; and (5) that counsel for HVB
27 are from New York and Los Angeles: the parties seek to have the Case Management Conference
28

1 and Motion to Dismiss hearing in the *Gustashaw* case and the Pre-Trial Conference in the *Rezner*
2 case all heard and addressed on March 9, 2009 at 11:00 a.m.

3 **STIPULATION**

4 Based on the foregoing recitals, the parties, through their respective counsel of record,
5 stipulate and agree as follows:

6 1. The Case Management Conference and the hearing on HVB's Motion to Dismiss
7 in the *Gustashaw* action and the Pretrial Conference in the *Rezner* action are each continued to
8 March 9, 2009 at 11:00 a.m.

9 2. The parties' shall file their Joint Case Management Statement in the *Gustashaw*
10 action on or before February 27, 2009.

11
12 Kathryn Keneally
13 Joseph H. Park
14 India Decarmine
15 Tarifa B. Laddon
16 FULBRIGHT & JAWORSKI L.L.P.

15 Dated: January 27, 2009

16 _____
17 Joseph H. Park

18 Attorneys for Defendants BAYERISCHE HYPO-
19 UND VEREINSBANK AG and HVB U.S.
20 FINANCE, INC.

21 William M. Lukens
22 Jennifer L. Jonak
23 LUKENS LAW GROUP

21 Dated: January 27, 2009

22 _____
23 /S/ Jennifer L. Jonak
24 Jennifer L. Jonak

25 Attorneys for Plaintiff WILLIAM E.
26 GUSTASHAW, JR.

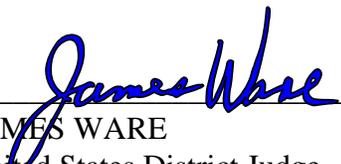
1 ~~PROPOSED~~ ORDER

2 The Court finds good cause to grant the parties' Stipulation as modified:

3 (1) The Case Management Conference in the Gustashaw action is continued from February 2,
4 2009 to **March 9, 2009 at 10 a.m.** On or before **February 27, 2009**, the parties shall file a Joint
5 Case Management Statement. The Statement shall include, among other things, a good faith
6 discovery plan with a proposed date for the close of all discovery.
7

8 (2) The Preliminary Pretrial Conference in the Rezner action is continued from February 23,
9 2009 to **March 9, 2009 at 11 a.m.** On or before **February 27, 2009**, the parties shall file a Joint
10 Preliminary Pretrial Statement. The Statement shall include, among other things, the parties'
11 position with respect to their readiness for trial and a proposed schedule for trial.
12

13
14 Dated: January 28, 2009



JAMES WARE
United States District Judge