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Attorneys for the Federal Deposit Insurance Corporation,
as Receiver for Defendant Washington Mutual Bank

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

FELTON A. SPEARS, JR. and SIDNEY)
SCHOLL, on behalf of themselves and all others)
similarly situated,)

Case No. 5:08-cv-00868 (RMW)
CLASS ACTION

Plaintiffs,)

v.)

WASHINGTON MUTUAL, INC., a Washington)
corporation; WASHINGTON MUTUAL BANK,)
FA (aka WASHINGTON MUTUAL BANK);)
FIRST AMERICAN EAPPRAISEIT, a Delaware)
corporation; and LENDER'S SERVICE, INC.,)
Defendants.)

**STIPULATION AND ~~PROPOSED~~
ORDER TO SUBSTITUTE THE
FEDERAL DEPOSIT INSURANCE
CORPORATION, AS RECEIVER FOR
WASHINGTON MUTUAL BANK, AS
REAL PARTY IN INTEREST**

This stipulation is entered into by and among the Federal Deposit Insurance Corporation ("FDIC"), as the duly appointed Receiver for defendant Washington Mutual Bank ("WMB"), defendant First American eAppraiseIT ("EA"), defendant Lender's Services, Inc. ("LSI") and plaintiffs Sidney Scholl and Felton A. Spears, Jr. ("Plaintiffs"), as follows:

1 WHEREAS, on September 25, 2008, the Office of Thrift Supervision (“OTS”) closed
2 WMB;

3 WHEREAS, pursuant to Section 1821(c) of the Federal Deposit Insurance Act (the “Act”),
4 12 U.S.C. § 1821(c), the OTS duly appointed the FDIC as Receiver for WMB;

5 WHEREAS, under Section 1821(d)(2) of the Act, as Receiver, the FDIC succeeds to “all
6 rights, titles, powers, and privileges” of WMB, and may “take over the assets of and operate”
7 WMB with all the powers thereof, including the resolution of outstanding claims against the
8 institution in receivership;

9 WHEREAS, the FDIC, as Receiver for WMB, has stepped into WMB’s shoes for the
10 purposes of this litigation and is the real party in interest;

11 WHEREAS, pursuant to Federal Rule of Civil Procedure 25(c), where the interests of a
12 litigant have been transferred to another entity, “the court ... [may] order[] the transferee to be
13 substituted in the action”; and

14 WHEREAS, none of Plaintiffs, EA and LSI have any objection to the substitution of the
15 FDIC, as Receiver for WMB, as the real party in interest;

16 **NOW, THEREFORE, IT IS HEREBY STIPULATED** by the parties, through their
17 respective counsel of record, that the FDIC, as Receiver, shall be substituted for WMB as the real
18 party in interest, and that the case shall be re-captioned to reflect that substitution.

19
20 DAVIS WRIGHT TREMAINE LLP

21
22 Dated: November 3, 2008

23 By /s/ Jonathan M. Lloyd
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SPECTER, SPECTER EVANS & MANOGUE, P.C.

Dated: November 3, 2008

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MCDONOUGH HOLLAND & ALLEN PC

Dated: November 3, 2008

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Attorneys for First American eAppraiseIT

DEWEY & LEBOEUF LLP

Dated: November 3, 2008

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~~[PROPOSED]~~ ORDER

This matter having come before the Court by stipulation of the Parties, and the Court being fully advised in the premises,

IT IS HEREBY ORDERED THAT the Federal Deposit Insurance Corporation, as Receiver, shall be and hereby is substituted for Washington Mutual Bank as the real party in interest, and that this case be re-captioned to reflect that substitution.

Dated: 11/18/08

Ronald M. Whyte

Honorable Ronald M. Whyte
United States District Court Judge

DAVIS WRIGHT TREMAINE LLP

CERTIFICATE OF SERVICE

I hereby certify that on November 3, 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

- Robert Ira Spiro - Ira@SpiroMoss.com
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and I hereby certify that I have mailed by United States Postal Service the document to the following non CM/ECF participants:

Kerry Ford Cunningham
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DATED this 3rd day of November, 2008.

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