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6 Attorneys for Defendant
 7 FEDERAL DEPOSIT INSURANCE
 CORPORATION

8 UNITED STATES DISTRICT COURT
 9 NORTHERN DISTRICT OF CALIFORNIA

11 HENRY BOTELHO, an individual,
 12 Plaintiff,
 13 vs.

14 MORTGAGEIT, INC., a New York
 corporation; FEDERAL DEPOSIT
 15 INSURANCE CORPORATION, as
 Conservator of INDYMAC FEDERAL
 16 BANK, F.S.B.; and DOES 1-100,
 Inclusive,
 17 Defendants.

Case No. 4:08-cv-04316

STIPULATION TO ALLOW FDIC TO
 BE ADDED AS ADDITIONAL PARTY
 IN ITS CAPACITY AS RECEIVER OF
 INDYMAC BANK FSB; [~~Proposed~~]
 ORDER THEREON

19 WHEREAS On July 11, 2008, the Office of Thrift Supervision ("OTS")
 20 closed IndyMac Bank, FSB and appointed the FDIC as its receiver pursuant to 12
 21 U.S.C. § 1464(d)(2)(A) and § 1821(c)(5). As receiver, the FDIC was appointed for
 22 the purpose of liquidating the liabilities of the failed institution. This includes the
 23 administration of claims filed by creditors of the failed institution. On the same
 24 date, the OTS chartered a new institution, IndyMac Federal Bank, FSB, to which it
 25 transferred all of the insured deposits and substantially all of the assets of the failed
 26 institution. The OTS then appointed the FDIC as conservator to operate new
 27 institution and assumes all rights, titles, powers, privileges, and operations of the
 28 failed institution. Since that date, the FDIC has been operating in the dual capacity

1 as receiver of IndyMac Bank, FSB and as conservator of IndyMac Federal Bank,
2 FSB (collectively, the "Bank");

3 WHEREAS this Court entered an order on the stipulation of the parties on
4 October 1, 2008, that substituted the FDIC into this action in the single capacity of
5 Conservator of IndyMac Federal Bank, FSB;

6 WHEREAS the Complaint in the above-captioned action seeks relief that
7 implicates the FDIC's dual role as receiver and as conservator of the Bank;

8 WHEREAS in order to protect the interests of the receivership, the FDIC now
9 seeks leave to be added as a party into the above-captioned action in its additional
10 capacity as receiver of IndyMac Bank, FSB;

11 WHEREAS, the parties hereto, stipulate between themselves that the FDIC be
12 granted leave to be added as a party into this action in its additional capacity as
13 receiver of IndyMac Bank, FSB.

14 Dated: January 15, 2009

15 ALLEN MATKINS LECK GAMBLE
16 MALLORY & NATSIS LLP
17 DAVID R. ZARO
18 JOSHUA R. MANDELL

19 By: /s/ Joshua R. Mandell

20 JOSHUA R. MANDELL
21 Attorneys for Defendant
22 FEDERAL DEPOSIT INSURANCE
23 CORPORATION

24 Dated: January 15, 2009

25 JENKINS MULLIGAN & GABRIEL
26 LLP
27 TOM JENKINS
28 DAN MULLIGAN

By: /s/ Dan Mulligan

DAN MULLIGAN
Attorneys for Plaintiff
HENRY BOTELHO

1 IT IS ORDERED that:

2 1. The FDIC is granted leave to be added into this action as an additional
3 party in the following capacity and form: Federal Deposit Insurance Corporation, as
4 Receiver of IndyMac Bank, FSB.

5 Dated: 1/26/09



Hon. Claudia Wilken
United States District Court Judge

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