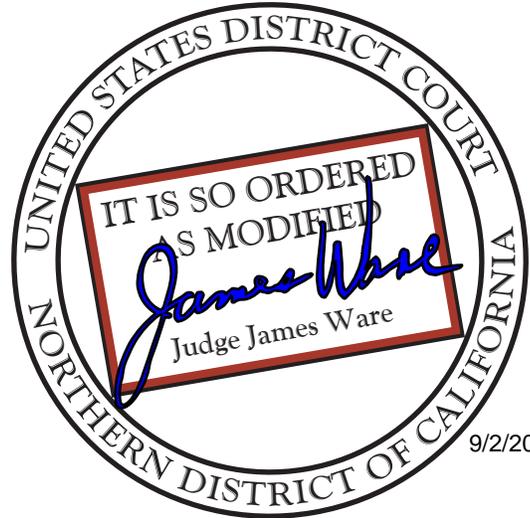


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27 UNITED STATES DISTRICT COURT
 28 NORTHERN DISTRICT OF CALIFORNIA
 SAN JOSE DIVISION

29 BRICE YINGLING D/B/A ALAMO
 30 AUTOSPORTS AND ANDY SCOTT,

31 Plaintiffs,

32 v.

33 EBAY INC.,

34 Defendant.

Case No. C 09 01733 JW (PVT)

RENEWED STIPULATION AND [PROPOSED] ORDER FOR STAY IN LITIGATION

Judge: Hon. James Ware

Trial Date: Not yet set

1 Plaintiffs Brice Yingling and Andy Scott (“Plaintiffs”) and Defendant eBay Inc. (“eBay”),
2 by and through their respective counsel herein, hereby stipulate and agree as follows:

3 **RECITALS**

4 WHEREAS, on July 16, 2010, the Court ordered that a class be certified in this matter;

5 WHEREAS, on July 30, 2010, eBay filed a petition under Federal Rule of Civil Procedure
6 23(f) requesting that the Ninth Circuit Court of Appeals accept an interlocutory appeal of the
7 Court’s class certification decision;

8 WHEREAS, eBay’s Rule 23(f) petition is currently pending before the United States
9 Court of Appeals for the Ninth Circuit and has not yet been ruled upon;

10 WHEREAS, Plaintiffs and eBay have agreed to participate in a mediation of this
11 litigation;

12 WHEREAS, on August 20, 2010, the Court denied the parties’ prior stipulation and
13 proposed order for stay in litigation without prejudice to renew, provided the renewed stipulation
14 clearly sets forth sufficient information regarding the mediation, including, among other things,
15 who will be mediating the litigation and when the mediation is scheduled;

16 WHEREAS, the parties have engaged the Hon. Layn R. Phillips with Irell & Manella LLP
17 as their mediator;

18 WHEREAS, the mediation is scheduled to take place on November 1, 2010, the first
19 available date, and the parties are engaged in good faith efforts to set an appropriate briefing
20 schedule;

21 WHEREAS, Plaintiffs and eBay further agree that both parties would incur needless
22 burden and expense by proceeding with this litigation prior to the resolution of the pending Rule
23 23(f) petition and the mediation;

24 WHEREAS, Plaintiff and Defendant have agreed to a temporary stay of proceedings in
25 light of the foregoing.

26 **STIPULATION**

27 IT IS HEREBY STIPULATED AND AGREED, by and between the parties that the
28 preparation and distribution of any class notice shall be temporarily stayed until the later of (a)

1 the Ninth Circuit's order on eBay's Rule 23(f) petition, and, if granted, completion of proceedings
2 related to the appeal; and (b) completion of the mediation between the parties. The parties further
3 agree to stay discovery until the completion of mediation between the parties. This Stipulation
4 does not preclude limited discovery as needed for the specific purposes of the parties' mediation,
5 to be further negotiated and agreed among the parties in good faith.

6 Dated: August 27, 2010

FIGARI & DAVENPORT, LLP
KEITH R. VERGES
RAYMOND E. WALKER

9 /s/

10 _____
Keith Verges

11 Attorneys for Plaintiffs
Brice Yingling and Andy Scott

12
13 Dated: August 27, 2010

COOLEY LLP
MICHAEL G. RHODES (116127)
WHITTY SOMVICHIAN (194463)

16 /s/

17 _____
Whitty Somvichian

18 Attorneys for Defendant
eBay Inc.

19
20
21 **FILER'S ATTESTATION**

22 *Filer's Attestation: Pursuant to General Order No. 45, Section X(B) regarding signatures,*
23 *Whitty Somvichian hereby attests that concurrence in the filing of this document has been*
24 *obtained.*

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ORDER

IT IS HEREBY ORDERED that the parties need not submit a proposal regarding class notice until the later of (a) the Ninth Circuit’s order on eBay’s Rule 23(f) petition, and, if granted, completion of the Rule 23(f) appeal proceedings; and (b) completion of mediation between the parties. It is further ORDERED that discovery is stayed until the completion of mediation between the parties. This order is without prejudice to any party’s right to seek relief from the court should the parties be unable to reach agreement regarding the scope of discovery needed for mediation or the need for a further stay of discovery pending completion of any Rule 23(f) appeal proceedings.

The parties shall appear for a status conference on **November 15, 2010 at 10:00 AM**. On or before **November 5, 2010**, the parties shall file a joint status statement informing the Court on the status of their settlement efforts.

Dated: September 2, 2010


United States District Court