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 ROGER SOMERS

20 UNITED STATES DISTRICT COURT  
 21 NORTHERN DISTRICT OF CALIFORNIA  
 22 SAN JOSE DIVISION

23 JAMES RAFTON, TRUSTEE OF THE  
 JAMES & CYNTHIA RAFTON TRUST, et al.,

24 Plaintiffs,

25 v.

26 RYDEX SERIES FUNDS, et al.,

27 Defendants.

No. CV 10-01171 LHK

Action Filed: March 19, 2010

STIPULATION AND ~~PROPOSED~~ ORDER  
 FOR RESCHEDULING OF CASE  
 MANAGEMENT ORDER

Dept: Courtroom 4, 5th Floor  
 Judge: Hon. Lucy H. Koh

1 Plaintiffs James Rafton and James Darst, Jr. (collectively, "Plaintiffs") and Defendants  
2 Rydex Series Funds, PADCO Advisors Inc. d/b/a Rydex Investments, Inc., Rydex Distributors,  
3 Inc., Michael P. Byrum, Richard M. Goldman, Carl G. Verboncoeur, John O. Demaret, Nick  
4 Bonos, Corey A. Colehour, J. Kenneth Dalton, Werner E. Keller, Thomas F. Lydon, Patrick T.  
5 McCarville, and Roger Somers (collectively, "Defendants") hereby stipulate as follows:

6 WHEREAS, the parties have engaged in substantial discovery (including the exchange of  
7 over 22,000 pages of documents), Defendants have deposed the proposed class representatives,  
8 and experts for both parties have performed an extensive analysis of liability and damage issues;

9 WHEREAS, on May 26, 2011 counsel participated in an extended settlement meeting,  
10 wherein experts from both sides were present and liability and damage issues were addressed in  
11 detail;

12 WHEREAS, the parties continue to engage in serious settlement negotiations with a  
13 deadline of June 8, 2011 to complete discussions and report back to the Court at the Case  
14 Management Conference scheduled for the same date;

15 WHEREAS, the parties seek to postpone certain case deadlines in order to focus on  
16 settlement issues; and

17 WHEREAS, the postponed deadlines will not affect the existing briefing schedule or  
18 hearing date for the class certification motion;

19 NOW, THEREFORE, the undersigned parties, by and through their counsel of record,  
20 request the following modification to the Case Management Scheduling Order and case schedule  
21 issued by the Court on March 23, 2011:

- 22 1. Disclosure of Rebuttal Experts and Exchange of Reports is moved from June 7,  
23 2011 to June 21, 2011; and
- 24 2. End of Class Certification Expert Discovery is moved from June 21, 2011 to July  
25 15, 2011.

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1           3.       The remaining case schedule shall remain the same.

2 Dated: May 27, 2011

Respectfully submitted,

3 ALAN W. SPARER  
4 MARC HABER  
5 KEVIN H. LEWIS  
6 JAMES S. NABWANGU  
7 SPARER LAW GROUP

8 By:                   /s/ Alan W. Sparer                    
9 ALAN W. SPARER

10 Counsel for JAMES RAFTON, TRUSTEE OF  
11 THE JAMES AND CYNTHIS RAFTON  
12 TRUST and JAMES DARST, JR., AS  
13 TRUSTEE OF THE JAMES & HILLARY  
14 DARST TRUST

15           Concurrence in the filing of this document has been obtained from each of the other  
16 signatories.

17 Dated: May 27, 2011

Respectfully submitted,

18 DECHERT LLP  
19 MATTHEW L. LARRABEE  
20 DAVID A. KOTLER  
21 MURIEL M. KOROL

22 By:                   /s/ Matthew L. Larrabee                    
23 MATTHEW L. LARRABEE

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