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6 Attorneys for Defendant Merrill, Lynch, Pierce,
 Fenner & Smith, Inc.

7
 8 UNITED STATES DISTRICT COURT
 9 NORTHERN DISTRICT OF CALIFORNIA
 10 SAN JOSE DIVISION

11
 12 ELWOOD QUESADA, JAMES DeROSA, and
 13 Others Similarly Situated,

14 Plaintiffs,

15 vs.

16 BANC OF AMERICA INVESTMENT
 SERVICES, INC., NKA MERRILL LYNCH,
 17 PIERCE, FENNER & SMITH, INC,

18 Defendant.

Case No. CV-11-01703 JF

**STIPULATED REQUEST AND
~~PROPOSED~~ ORDER TO CONTINUE
 CASE MANAGEMENT CONFERENCE**

Date: July 8, 2011
 Time: 10:30 a.m.
 Courtroom: 3

The Honorable Jeremy Fogel

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 20
 21 IT IS HEREBY STIPULATED AND REQUESTED, by and between Plaintiffs Elwood
 22 Quesada and James DeRosa (“collectively “Plaintiffs”) and defendant Banc of America Investment
 23 Services, Inc., now known as Merrill, Lynch, Pierce, Fenner & Smith, Inc. (“Merrill Lynch”),
 24 through their respective attorneys of record, and based upon good cause, that the Court may make
 25 and issue its Order Continuing the Case Management Conference in this matter, currently set for 10:
 26 a.m. on July 8, 2011, until September 9, 2011, or such other date as the Court is available. Good
 27 cause exists for this request, as follows:
 28

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1 (1) On or about February 7, 2011 Plaintiffs filed a Complaint against Bank of America
2 Corporation (“BAC”) in the Superior Court for the State of California county of Santa Clara, case
3 number 111CV193724. BAC removed the action to this court and filed a Motion to Dismiss the
4 Complaint;

5 (2) In response to BAC’s Motion to Dismiss, Plaintiffs filed an Amended Complaint on
6 or about May 11, 2011. In the Amended Complaint, Plaintiffs dismissed BAC and alleged claims
7 against Merrill Lynch;

8 (3) On or about May 16, 2011 Merrill Lynch, by and through its counsel, executed a
9 Waiver of Service of Summons of the Amended Complaint in this matter;

10 (4) The time for Merrill Lynch to respond to the Amended Complaint will not have run
11 as of the July 8, 2011 date, Merrill Lynch will not have appeared, and the matter will not be at issue;

12 (5) Plaintiffs’ counsel is unavailable on July 8, 2011.

13 (6) The parties request this continuance and believe there is good cause for this
14 continuance because the parties believe a Rule 26(f) conference will be more efficient, the parties
15 will be better able to assess the issues, and the parties will be able to present this Court with a more
16 informative and reasoned report under Federal Rule of Civil Procedure Rules 16(b) and 26 and Local
17 Rule 16-9 after Merrill Lynch has appeared in this action and responded to the Amended Complaint.

18 DATED: June 29, 2011

19 LAW OFFICES OF JON E. DRUCKER

20
21 By _____ / s / Jon E. Drucker
22 Jon E. Drucker
23 Attorneys for Plaintiffs Elwood Quesada and James
24 DeRosa

25 DATED: June 29, 2011

26 REED SMITH LLP

27 By _____ / s / Heather B. Hoesterey
28 Heather B. Hoesterey
Attorneys for Defendant Merrill, Lynch, Pierce,
Fenner & Smith, Inc.

1 **~~PROPOSED~~ ORDER**

2 Upon reading the above Stipulation, and good cause appearing, IT IS HEREBY ORDERED
3 that the Case Management Conference, currently set for 10:00 a.m. on July 8, 2011, is continued to
4 September 9, 2011 at 10:30 a.m.

5 The Parties shall file their ADR Certification and Stipulation for ADR Process pursuant to
6 local Rule 16-8 on or before August 26, 2011.

7 The Parties shall file their Joint Scheduling Conference Report Pursuant to Rule 26 and Joint
8 Case Management Statement pursuant to Local Rule 16-9 on or before September 2, 2011.

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11 DATED: 7/7/2011


12 THE HONORABLE ERIK M. FOSEL
13 UNITED STATES DISTRICT JUDGE

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