

1 Marc A. Lackner (SBN 111753)
 Email: mlackner@reedsmith.com
 2 David S. Reidy (SBN 225904)
 Email: dsreidy@reedsmith.com
 3 Matthew J. Brady (SBN 254333)
 Email: mbrady@reedsmith.com
 4 REED SMITH LLP
 101 Second Street, Suite 1800
 5 San Francisco, CA 94105-3659
 Telephone: +1 415 543 8700
 6 Facsimile: +1 415 391 8269

7 Attorneys for Defendants
 FIA Card Services, N.A., and
 8 Bank of America Corporation

9
 10
 11 **IN THE UNITED STATES DISTRICT COURT**
 12 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
 13 **SAN JOSE DIVISION**

REED SMITH LLP

A limited liability partnership formed in the State of Delaware

15 STEPHENIE ROSE, on behalf of herself and all
 16 others similarly situated,

17 Plaintiffs,

18 vs.

19 BANK OF AMERICA CORPORATION, and
 20 FIA CARD SERVICES, N.A.,
 Defendants.

Case No.: 5:11-cv-02390 EJD

**STIPULATED REQUEST AND
~~PROPOSED~~ ORDER VACATING CASE
 MANAGEMENT ORDER AND STAYING
 DISCOVERY**

[CIVIL L.R. 7-12; 16-2(E)]

1 Pursuant to Local Rules 7-12 and 16-2(e), Plaintiff Stephenie Rose, on behalf of herself and
2 all others similarly situated (“Plaintiff”) and Defendants FIA Card Services, N.A. and Bank of
3 America Corporation (“Defendants”) (collectively, the “Parties”) hereby stipulate and agree to the
4 following:

5 **RECITALS**

6 1. WHEREAS, on May 16, 2011, Plaintiff filed a class action complaint for damages
7 and injunctive relief pursuant to 47 U.S.C. section 227 *et seq.* against Defendants (Dkt. No. 1) (the
8 “*Rose Case*”);

9 2. WHEREAS, on August 31, 2011, plaintiffs Sandra Ramirez and Scott Fowler, on
10 behalf of themselves and all others similarly situated, filed a class action complaint for damages and
11 injunctive relief pursuant to 47 U.S.C. section 227 *et seq.* against defendant Bank of America, N.A.,
12 in the United States District Court, Southern District of California, Case No. 11cv2008-LAB (KSC)
13 (Dkt. No. 1) (the “*Ramirez Case*”);

14 3. WHEREAS, on January 17, 2012, this Court issued a Case Management Order,
15 setting various class certification, discovery, dispositive motion, and pretrial conference deadlines,
16 which directed the parties to private mediation (Dkt. No. 31);

17 4. WHEREAS, on August 31, 2012, the *Ramirez* court issued an Order consolidating
18 Southern District Case Nos. 11cv3040-LAB (KSC) (the “*Johnson Case*”) and 12cv1662-LAB (KSC)
19 (the “*Makin Case*”) with the *Ramirez Case* (Dkt. No. 34) (collectively, the “*Ramirez Consolidated*
20 *Cases*”);

21 5. WHEREAS, on July 30, 2012, plaintiffs Carol Duke and Jack Poster, on behalf of
22 themselves and all others similarly situated, filed a class action complaint for damages and
23 injunctive relief pursuant to 47 U.S.C. section 227 *et seq.* against defendants FIA Card Services,
24 N.A., Bank of America, N.A., and Bank of America Corporation. (Dkt. No. 1) (the “*Duke Case*”);

25 6. WHEREAS, on September 14, 2012, Judge Henderson issued an Order of Referral,
26 referring the *Duke Case* to this Court to consider whether it is related to the *Rose Case* (Dkt. No. 21);
27
28

1 7. WHEREAS, on September 25, 2012, this Court issued a Related Case Order, finding
2 that the *Duke* Case and *Rose* Case are related and ordering that the cases be reassigned to him (Dkt.
3 No. 26);

4 8. WHEREAS, counsel for all parties in the *Ramirez* Consolidated Cases have agreed to
5 mediate those matters before the Honorable Edward A. Infante (Ret.) on October 23, 2012, and the
6 Parties have agreed to mediate all claims in this Action and the *Duke* Case, in addition to the
7 *Ramirez* Consolidated Cases;

8 9. WHEREAS, the motion for class certification in the *Rose* Case is due to be filed on
9 November 20, 2012 and other deadlines are pending;

10 10. WHEREAS, the Parties anticipate that additional mediation sessions may be
11 necessary in the *Rose* Case, *Duke* Case, and *Ramirez* Consolidated Cases; and

12 11. WHEREAS, in the interests of judicial economy the Parties wish to fully explore
13 settlement discussions prior to engaging in discovery, class certification briefing and trial
14 preparation and therefore agree to stay discovery and vacate the class certification and trial deadlines
15 set forth in this Court’s Case Management Order.

16 NOW, THEREFORE, in consideration of the foregoing, the Parties, by and through their
17 respective counsel of record, hereby STIPULATE as follows:

- 18 • That the January 17, 2012 Case Management Order, and all of the dates therein, be
19 vacated;
- 20 • That the Court set a further Case Management Conference at a date and time
21 following October 23, to allow the parties to engage in mediation and report to
22 the Court on mediation efforts; and
- 23 • That all discovery in this Action be stayed , except insofar as the parties request
24 informal discovery in order to engage in meaningful settlement negotiations, and all
25 discovery deadlines be vacated pending further Order of this Court.

26
27 ///

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IT IS SO STIPULATED.

DATED: October 8, 2012

REED SMITH LLP

By /s/ David S. Reidy
David S. Reidy
Attorneys for Defendants
FIA Card Services, N.A. and
Bank of America Corporation

DATED: October 8, 2012

LAW OFFICES OF DOUGLAS J CAMPION

By /s/ Douglas J. Campion
Douglas James Campion
Attorney for Plaintiff
Stephenie Rose

DATED: October 8, 2012

LIEF CABRASER HEIMANN & BERNSTEIN, LLP

By /s/ Jonathan Selbin
Jonathan Selbin
Attorneys for Plaintiff
Stephenie Rose

**Filer's Attestation: Pursuant to Civil L.R. 5-1(i)(3) regarding signatures, David S. Reidy hereby attests that concurrence in the filing of this document has been obtained.*

1 **~~PROPOSED~~ ORDER**


2 Pursuant to the above Stipulation, the January 17, 2012 Case Management Order is
3 VACATED.

4 The November 9, 2012 case management conference is CONTINUED to
5 December 7, 2012 at 10:00 AM/PM. The Parties shall file a joint statement advising the
6 Court of the status of mediation and settlement discussions no later than November 30, 2012.

7 Discovery in this action is hereby STAYED and all discovery deadlines are hereby
8 VACATED pending further order from this court.

9
10 **SO ORDERED:**

11
12 DATED: 10/10, 2012.

13 
14 Hon. Edward J. Davila
15 United States District Court Judge

REED SMITH LLP
A limited liability partnership formed in the State of Delaware