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9 Attorneys for Plaintiffs,
 Keith Charles Knapp, as Trustee of the California Home Loans
 10 Profit Sharing Plan, the Trust for the California Home Loans
 Profit Sharing Plan, as a fiduciary of the California Home Loans
 11 Profit Sharing Plan, and Theresa A. Lavoie, as a participant in the
 California Home Loans Profit Sharing Plan
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13
 14 UNITED STATES DISTRICT COURT
 15 FOR THE NORTHERN DISTRICT OF CALIFORNIA
 16 SAN JOSE DIVISION
 17

18 KEITH CHARLES KNAPP, as Trustee of)
 the California Home Loans Profit Sharing)
 19 Plan; TRUST FOR THE)
 CALIFORNIA HOME LOANS)
 20 PROFIT SHARING PLAN, as a fiduciary)
 of the California Home Loans Profit)
 21 Sharing Plan; THERESA A LAVOIE, as)
 a participant in the California Home Loans)
 22 Profit Sharing Plan)

CASE NO. C 12-05076 RMW
STIPULATION FOR ADMINISTRATIVE
ORDER TO CONSOLIDATE MATTERS
FOR HEARING ON MAY 10, 2013 AND
[PROPOSED] ORDER
CIVIL L. R. 6-2, 7-11

23 Plaintiffs,)
 24 v.)
 25 NOREEN CARDINALE, an individual,)
 26 Defendant.)
 27)
 28)

1 NOREEN CARDINALE,)

2 Plaintiff,)

3 v.)

4 DANIEL R. MILLER JR.; PATRICE)
5 MILLER, his spouse; DANIEL R. MILLER)
6 SR.; PASHLIN INC., a California)
7 corporation; DERALD R. KENOYER;)
8 KEITH CHARLES KNAPP; HOME LOAN)
9 SERVICES CORPORATION dba)
10 CALIFORNIA HOME LOANS, a California)
11 Corporation; and DOES 1 through 100,)
12 inclusive)

13 Defendants.)

RELATED CASE NO. C 12-05078 RMW

**(Remanded Pursuant to Order Dated
February 15, 2013)**

12 **SUMMARY OF FACTUAL BACKGROUND**

13 On March 15, 2013, this Court granted Plaintiffs’ Motion for Leave to File Amended
14 Complaint (Docs. 30, 31) without prejudice to Defendant filing a motion to dismiss or stay and
15 Plaintiffs filing a motion for preliminary injunction, and, during oral argument, this Court
16 requested that the parties attempt to coordinate such motions so as to be heard on the same day
17 (the “Court’s Request”).

18 On April 4, 2013, Plaintiffs filed their Notice of Motion and Motion for Preliminary
19 Injunction (“Plaintiffs’ Motion”) (Doc. 34) with a calendared hearing date and time of May 10,
20 2013, at 9:00 a.m. Prior to the filing of Plaintiffs’ Motion, Plaintiffs’ counsel communicated with
21 Defendant’s counsel and agreed that Plaintiffs would file their motion so that it could be heard on
22 May 10, 2013, with a regularly-noticed hearing date and Defendant’s counsel indicated that
23 Defendant would also notice a motion to dismiss or stay to be heard on May 10, 2013.

24 On April 10, 2013, Defendant filed her Motion to Dismiss and/or Stay Action
25 (“Defendant’s Motion”) (Doc. 38) with a calendared hearing date and time of May 17, 2013, at
26 9:00 a.m.

27 All parties and their respective counsel are mindful of the Court’s Request, and of both
28 counsel for Plaintiffs being unavailable after May 10, 2013, for a later hearing date that month.

1 Plaintiffs' Motion was filed in the normal course (*i.e.*, no shortened time) such that the
2 dates for Defendant's Opposition and Plaintiffs' Reply remain as provided in Civil L.R. 7-3.

3 Defendant's Motion was filed with a calendared hearing date and time of May 17, 2013
4 at 9:00 a.m. Defendant's counsel concede that the motion was filed outside the scope of the
5 permitted time provided for in Fed. R. Civ. P. 15(a)(3) because Defendant's counsel mistakenly
6 assumed that the time limit of Fed. R. Civ. P. 12(a)(1)(B) governed.

7 During a lengthy meet and confer among counsel for the parties on April 15, 2013, *inter*
8 *alia*, the following was discussed: i) the parties should continue to attempt to adhere to the Court's
9 Request; and ii) Plaintiffs' counsel are both unavailable because of the due date to give birth of
10 Plaintiffs' lead counsel's wife and prior long-standing obligations of Plaintiffs' additional counsel.
11 Counsel for both sides also discussed the scheduling difficulties of Plaintiffs' counsel after May
12 17, 2013.

13 Accordingly, the parties request that Defendant's Motion be reset for May 10, 2013. The
14 only changes in time would be for: i) Defendant's Motion to be re-calendared for hearing on May
15 10, 2013, at 9:00 a.m., rather than May 17, 2013 at 9:00 a.m., so as to be consistent with the
16 Court's Request; and ii) Defendant's Reply to Plaintiffs' Opposition to Defendant's Motion to be
17 due on or before April 29, 2013, rather than May 1, 2013.

18 The potential harm and prejudice if this Court does not approve this Stipulation is that
19 i) Plaintiffs' Motion and Defendant's Motion may not be able to be heard in accordance with the
20 Court's Request and ii) matters have been calendared in the Superior Court for the County of
21 Contra Costa on June 14, 2013, that relate to Plaintiffs' Motion.

22 As set forth above, this Stipulation arises based upon an April 15, 2013 meet and confer
23 among counsel for all parties thereby satisfying the requirement of Civil L.R. 6-3(a) and 7-11(a).
24 Further, there have been no previous time modifications in this case, whether by stipulation or
25 order of this Court.

26 The parties do not believe that the requested relief would have any effect on the overall
27 schedule for the case.

28 As an ancillary matter, Defendant has filed an Administrative Motion for Leave to File an

1 Extended Brief in support of Defendant’s Motion (Doc. 39), specifically 31 pages. Counsel for the
2 parties have further agreed that Plaintiffs will not oppose that Administrative Motion, and that
3 Defendants will waive any opposition to a comparable Administrative Motion, if filed by
4 Plaintiffs, for a comparable number of pages, and then only if Plaintiffs determine this is needed.

5 **STIPULATION**

6 Pursuant to Civil L.R. 6-2 and 7-11 Plaintiffs and Defendant, acting through their
7 respective counsels, hereby stipulate and respectfully request that this Court to order that:

8 1. Defendant’s Motion to Dismiss and/or Stay Action (Doc. 38) is recalendared to
9 May 10, 2013, at 9:00 a.m., so as to be heard by the Court at the same date and time as Plaintiff’s
10 Motion for Preliminary Injunction (Doc. 34);

11 2. Plaintiffs’ Opposition to Defendant’s Motion to Dismiss and/or Stay Action (Doc.
12 38) is to be filed on or before April 24, 2013, and Defendant’s Reply to Plaintiffs’ Opposition to
13 Defendant’s Motion to Dismiss and/or Stay Action (Doc. 38) is to be filed on or before April 29,
14 2013;

15 3. Defendant’s Administrative Motion for Leave to File an Extended Brief in
16 support of Defendant’s Motion (Doc. 39), specifically 31 pages, is granted without opposition by
17 Plaintiffs; and

18 4. Any Administrative Motion for Leave to File an Extended Brief by Plaintiffs,
19 specifically 31 pages, is to be granted with opposition waived in advance by Defendant.

20 **IT IS SO STIPULATED**

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