

1 JOSEPH P. GUGLIELMO (admitted *pro hac vice*)
 2 DONALD A. BROGGI (admitted *pro hac vice*)
 3 JOSEPH D. COHEN (#155601)
 4 SCOTT+SCOTT, ATTORNEYS AT LAW, LLP
 5 The Chrysler Building
 6 405 Lexington Avenue 40th Floor
 7 New York, NY 10174
 8 Telephone: (212) 223-6444
 9 Facsimile: (212) 223-6334

10 LIONEL Z. GLANCY (#134180)
 11 MICHAEL GOLDBERG (#188669)
 12 ROBERT V. PRONGAY (#270796)
 13 CASEY E. SADLER (#274241)
 14 GLANCY BINKOW & GOLDBERG LLP
 15 1925 Century Park East, Suite 2100
 16 Los Angeles, California 90067
 17 Telephone: (310) 201-9150
 18 Facsimile: (310) 201-9160
 19 E-mail: info@glancylaw.com

20 *Attorneys for Plaintiff*
 21 *[Additional counsel on signature page]*

22 **UNITED STATES DISTRICT COURT**
 23 **NORTHERN DISTRICT OF CALIFORNIA**
 24 **SAN JOSE DIVISION**

25 POLICE AND FIRE RETIREMENT
 26 SYSTEM OF THE CITY OF DETROIT,
 27 Individually and On Behalf of All Others
 28 Similarly Situated,

Plaintiff,

v.

ROSEMARY A. CRANE, PATRICK D.
 SPANGLER, PATRICK S. JONES,
 PETER C. BRANDT, PHILIPPE O.
 CHAMBON, DARREN W. COHEN,
 THOMAS L. HARRISON, GILBERT H.
 KLIMAN, JOHN E. VORIS, MARK A.
 WAN, JACOB J. WINEBAUM and
 EPOCRATES, INC.,

Defendants.

Case No. C 13-00945 LHK

CLASS ACTION

**STIPULATION AND ~~PROPOSED~~
 ORDER TO CONTINUE THE INITIAL
 CASE MANAGEMENT CONFERENCE,
 RESET RELATED DEADLINES AND
 EXTEND DEFENDANTS' TIME TO
 ANSWER OR OTHERWISE RESPOND TO
 THE COMPLAINT**

[Civil L.R. 16-2, 7-12]

DATE: June 6, 2013

TIME: 2:00 p.m.

COURTROOM: 8

Honorable Lucy H. Koh

STIPULATION AND ~~PROPOSED~~ ORDER TO CONTINUE THE INITIAL CASE MANAGEMENT
 CONFERENCE, RESET RELATED DEADLINES AND EXTEND THE DEFENDANTS' TIME TO ANSWER
 OR OTHERWISE RESPOND TO THE COMPLAINT 5:13-CV-00945-LHK

1 Pursuant to Civil Local Rules 16-2 and 7-12, Plaintiff Police and Fire Retirement System
2 of the City of Detroit (“Plaintiff”) and Defendants Epocrates, Inc., Rosemary A. Crane, Patrick D.
3 Spangler, Patrick S. Jones, Peter C. Brandt, Philippe O. Chambon, Darren W. Cohen, Thomas L.
4 Harrison, Gilbert H. Kliman, John E. Voris, Mark A. Wan, and Jacob J. Winebaum (collectively,
5 “Defendants”) (collectively, the “Parties”) hereby agree and stipulate that good cause exists to
6 request an order from the Court rescheduling the Initial Case Management Conference currently
7 set for June 6, 2013 (pursuant to this Court’s March 1, 2013 Order Setting Initial Case
8 Management Conference and ADR Deadlines (DE 2) (the “March 1, 2013 Order”)), adjusting
9 accordingly the related deadlines set forth therein, and adjourning Defendants’ time to answer,
10 move or otherwise respond to the Complaint as set forth herein.

11 **RECITALS**

12 WHEREAS, Plaintiff filed a complaint on March 1, 2013 (the “Complaint”), that asserts
13 claims under the Securities Act of 1933 (the “Securities Act”) and the Securities Exchange Act of
14 1934 (the “Exchange Act”) on behalf of a purported class against Defendants;

15 WHEREAS, the Private Securities Litigation Reform Act of 1995 (the “PSLRA”) sets
16 forth mandatory, comprehensive and specific procedures governing the selection of a lead plaintiff
17 to oversee class actions brought under the federal securities laws. 15 U.S.C. §78u-4, *et seq.*;

18 WHEREAS, the PSLRA requires that notice of the commencement of an action be given
19 to permit other putative class members (who may seek to serve as lead plaintiff on behalf of the
20 class) the opportunity to file motions: (a) to be appointed lead plaintiff, to oversee and direct the
21 prosecution of the action; and (b) to consolidate other complaints which may be filed arising from
22 the same nexus of operative facts. *See* 15 U.S.C. §78u-4(a)(3)(A)&(B). This notice must be given
23 within 20 days after the filing of the securities fraud class action. 15 U.S.C. §78u-4(a)(3)(A)(i).
24 Prospective lead plaintiffs are given sixty (60) days from the publication of notice to move for
25 appointment as lead plaintiff, 15 U.S.C. §78u-4(a)(3)(A)(i)(II), with the Court to rule upon the
26 competing motions – applying the rules laid out in 15 U.S.C. §78u-4(a)(3)(B)(iii)(I) – thereafter.

1 WHEREAS, Plaintiff asserts that the notice of the commencement of this action was
2 published on the *Globe Newswire* on March 8, 2013, advising all putative class members that they
3 have until May 7, 2013 to move for appointment as lead plaintiff. *See* Docket Entry No. 6;

4 WHEREAS, Plaintiff anticipates that after the appointment of the lead plaintiff, lead
5 plaintiff will file an amended complaint;

6 WHEREAS, in effect, this action cannot be prosecuted against any defendant until this
7 Court first selects a lead plaintiff and lead counsel to represent the putative class;

8 WHEREAS, it would be more efficient to extend the time for Defendants to answer or
9 otherwise respond to the Complaint in the action until after the Court's appointment of a lead
10 plaintiff and lead plaintiff's designation of an operative complaint or filing of an amended
11 complaint;

12 WHEREAS, the March 1, 2013 Order directed the parties to meet, confer and complete
13 initial disclosures no later than May 15, 2013 in advance of the initial case management
14 conference currently set for June 5, 2013; and

15 WHEREAS, the parties believe that, because the PSLRA stays all discovery, including
16 initial disclosures, pending the disposition of motions to dismiss in securities actions such as this
17 one, it is appropriate to defer the initial case management conference and the completion of initial
18 disclosures until the lead plaintiff has been appointed, the lead plaintiff's selection of lead counsel
19 has been approved, the lead plaintiff has filed a consolidated amended complaint, Defendants have
20 had the opportunity to file any motion to dismiss, and the Court has ruled on Defendants'
21 anticipated motion to dismiss. *See, e.g., Medhekar v. United States Dist. Court*, 99 F.3d 325, 328-
22 29 (9th Cir. 1996) (holding F.R.C.P. 26(a)'s initial disclosure requirements are disclosures or other
23 proceedings for purposes of PSLRA's stay provision, and must be stayed pending disposition of
24 motion to dismiss).

25 THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the
26 parties through their undersigned counsel, that:

1 1. Defendants need not answer, move or otherwise respond to the Complaint in this
2 action until a date to be set following the appointment of a lead plaintiff pursuant to 15 U.S.C.
3 §78u-4(a)(3)(B) and the filing by such lead plaintiff of an amended complaint.

4 2. Upon the Court's appointment of a lead plaintiff, the lead plaintiff will have sixty
5 (60) days to designate an operative complaint or file an amended complaint.

6 3. Upon the designation of an operative complaint or the filing of an amended
7 complaint, Defendants will have sixty (60) days to answer, move against, or otherwise respond to
8 the Complaint; the lead plaintiff will have forty-five (45) days to file opposition(s) to any
9 motion(s) to dismiss filed by Defendants; and Defendants will have thirty (30) days to file replies
10 to lead plaintiff's opposition(s).

11 4. The Initial Case Management Conference shall be held thirty (30) days after an
12 order directing Defendants to file an answer (if any), or as soon as possible thereafter consistent
13 with the Court's schedule.

14 5. This Stipulation is entered into without prejudice to any party seeking any interim
15 relief.

16 6. Nothing in this Stipulation shall be construed as a waiver of any of Defendants'
17 rights or positions in law or equity, or as a waiver of any defenses that Defendants would
18 otherwise have, including, without limitation, jurisdictional defenses.

19 7. The Parties have not sought any other extensions of time in this action.

20 8. The Parties do not seek to reset these dates for the purpose of delay, and the
21 proposed new dates will not have an effect on any pre-trial and trial dates as the Court has yet to
22 schedule these dates.

23 WHEREFORE, the Parties respectfully request that this Court issue an order granting the
24 Parties' request to reset the Initial Case Management Conference and related deadlines as set forth
25 herein.

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IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

Dated: April 30, 2013

SCOTT+SCOTT, ATTORNEYS AT LAW, LLP

By: /s/ Joseph P. Guglielmo
Joseph P. Guglielmo (admitted *pro hac vice*)
Donald A. Broggi (admitted *pro hac vice*)
Joseph D. Cohen (#155601)
The Chrysler Building
405 Lexington Avenue 40th Floor
New York, NY 10174
Telephone: (212) 223-6444
Facsimile: (212) 223-6334
jguglielmo@scott-scott.com
dbroggi@scott-scott.com
jcohen@scott-scott.com

GLANCY BINKOW & GOLDBERG LLP

Lionel Z. Glancy
Michael Goldberg
Robert V. Prongay
Casey E. Sadler
1925 Century Park East, Suite 2100
Los Angeles, California 90067
Telephone: (310) 201-9150
Facsimile: (310) 201-9160
Email: info@glancylaw.com

Counsel for Plaintiff

Dated: April 30, 2013

GOODWIN PROCTER LLP

By: /s/ Teodora E. Manolova
Teodora E. Manolova (# 233333)
601 S. Figueroa St., 41st Floor
Los Angeles, California 90017
Tel.: (213) 426-2500
Fax.: (213) 623-1673
tmanolova@goodwinprocter.com

Deborah S. Birnbach (*pro hac vice* pending)
Exchange Place
53 State Street
Boston, Massachusetts 02109
Tel.: (617) 570-1000
Fax.: (617) 523-1231
dbirnbach@goodwinprocter.com

Counsel for Defendants

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ORDER

The stipulation set forth above is GRANTED with the exception of Paragraph 4. The initial Case Management Conference scheduled for May 15, 2013 shall be CONTINUED to September 18, 2013, at 1:30 p.m. If the parties wish to continue the Case Management Conference again at that time, the parties may file a stipulation requesting a continuance.

DATED: May 8, 2013



Hon. Lucy H. Koh
United States District Judge