

1 JAMES R. McGUIRE (CA SBN 189275)  
JMcGuire@mofo.com  
2 MORRISON & FOERSTER LLP  
425 Market Street  
3 San Francisco, California 94105-2482  
Telephone: 415.268.7000  
4 Facsimile: 415.268.7522

5 SYLVIA RIVERA (CA SBN 223203)  
SRivera@mofo.com  
6 MORRISON & FOERSTER LLP  
555 West Fifth Street  
7 Los Angeles, CA 90013-1024  
Telephone: 213.892.5200  
8 Facsimile: 213.892.5454

9 Attorneys for Defendants  
U.S. BANCORP and  
10 U.S. BANK NATIONAL ASSOCIATION,  
sued as "U.S. BANK, N.A."  
11

12 UNITED STATES DISTRICT COURT  
13 NORTHERN DISTRICT OF CALIFORNIA  
14 SAN FRANCISCO DIVISION  
15

16 GEORGE T. BURKE, ROBERT LOWE and  
LORI ALDANA, husband and wife; SHANE  
17 PARKINS and KARA PARKINS, husband and  
wife, on behalf of themselves and all others  
18 similarly situated,

19 Plaintiffs,

20 v.

21 U.S. BANCORP, U.S. BANK, N.A., and DOES  
1 through 10, inclusive,

22 Defendants.  
23

Case No. CV 09 1579 JSW

**CLASS ACTION**

**STIPULATION AND ~~[PROPOSED]~~  
ORDER STAYING ACTION  
PENDING RESOLUTION OF MDL  
TRANSFER ISSUE**

Hon. Jeffrey S. White

1 Plaintiffs George T. Burke, Robert Lowe, Lori Aldana, Shane Parkins, and Kara Parkins  
 2 (“Plaintiffs”) and Defendants U.S. Bancorp and U.S. Bank National Association, sued as “U.S.  
 3 Bank, N.A.” (“Defendants”), by and through their respective attorneys, hereby stipulate and agree  
 4 as follows:

5 WHEREAS, this Action involving the imposition of checking account overdraft fees was  
 6 commenced on February 6, 2009, in California State Superior Court;

7 WHEREAS, Defendants removed this Action from California State Superior Court on  
 8 April 10, 2009;

9 WHEREAS, Plaintiffs filed their Second Amended Complaint in this Action on July 14,  
 10 2009;

11 WHEREAS, on July 17, 2009, Defendants filed an Administrative Motion to Consider  
 12 Whether Cases Should be Related, pursuant to Civil Local Rule 3-12, with respect to this Action  
 13 and another checking account overdraft fee action pending against Defendants in this District,  
 14 *Willyum Waters, et al. v. U.S. Bancorp, et al.*, Case No. CV 09 2071 EMC (“*Waters*”);

15 WHEREAS, on July 28, 2009, this Court issued a Related Case Order reassigning *Waters*  
 16 to this Court (*see* Dkt. No. 25);

17 WHEREAS, on June 10, 2009, the Judicial Panel for Multidistrict Litigation (the “Panel”)  
 18 issued a Transfer Order in *In re Checking Account Overdraft Litigation* (MDL No. 2036) (*see*  
 19 Exhibit A);

20 WHEREAS, the Panel’s June 10, 2009 Transfer Order transferred to the Southern District  
 21 of Florida three other class actions involving the imposition of checking account overdraft fees  
 22 for consolidated or coordinated pretrial proceedings with two actions already pending in that  
 23 District;

24 WHEREAS, since June 10, 2009, the Panel has transferred additional class actions  
 25 involving the imposition of checking account overdraft fees to the Southern District of Florida as  
 26 “tag-along” actions to *In re Checking Account Overdraft Litigation* (MDL No. 2036);

1 WHEREAS, on or about July 16, 2009, the plaintiffs in *Waters* filed a notice with the  
 2 Panel identifying *Waters* and this Action as potential “tag-along” actions to *In re Checking*  
 3 *Account Overdraft Litigation* (MDL No. 2036) (*see* Exhibit B);

4 WHEREAS, on July 23, 2009, the Panel issued a Conditional Transfer Order  
 5 conditionally transferring this Action, *Waters*, and a third, unrelated action to the Southern  
 6 District of Florida as potential “tag-along” actions to *In re Checking Account Overdraft Litigation*  
 7 (MDL No. 2036) (*see* Exhibit C);

8 WHEREAS, any notices of opposition to the Panel’s July 23, 2009 Conditional Transfer  
 9 Order are due by August 7, 2009;

10 WHEREAS, the parties to this Action wish to avoid the unnecessary consumption of their  
 11 own and the Court’s resources and time while awaiting a decision by the Panel on whether this  
 12 Action should be transferred to the Southern District of Florida for consolidated or coordinated  
 13 pretrial proceedings as a “tag-along” action to *In Re Checking Account Overdraft Litigation*  
 14 (MDL No. 2036);

15 NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and among  
 16 Plaintiffs and Defendants, by and through their respective attorneys of record, as follows:

17 1. This Action shall be stayed pending a decision by the Panel on whether this Action  
 18 should be treated as a “tag-along” action to *In Re Checking Account Overdraft Litigation* (MDL  
 19 No. 2036) and transferred to the Southern District of Florida.

20 2. The foregoing stay shall include the stay of Defendants’ obligation to respond to  
 21 Plaintiffs’ Second Amended Complaint and the parties’ obligations related to the Initial Case  
 22 Management Conference currently scheduled for September 4, 2009.

23 //

24 //

25 //

26 //

27 //

28 //

