

The Honorable Marsha J. Pechman

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON

THE FEDERAL DEPOSIT INSURANCE CORPORATION, as RECEIVER of WASHINGTON MUTUAL BANK,

Plaintiff,

v.

KERRY K. KILLINGER, STEPHEN J. ROTELLA, DAVID C. SCHNEIDER, LINDA C. KILLINGER, and ESTHER T. ROTELLA,

Defendants.

Case No.: 2:11-cv-00459-MJP

STIPULATION AND PROPOSED ORDER TO GRANT PLAINTIFF LEAVE TO FILE OVERLENGTH BRIEF IN RESPONSE TO DEFENDANTS' MOTIONS TO DISMISS

**Note on Motion Calendar:  
August 10, 2011**

**[Local Civil Rules 7(d)(1) & 7(f)]**

Plaintiff Federal Deposit Insurance Corporation, as Receiver of Washington Mutual Bank ("FDIC" or "Plaintiff"), and Defendants Kerry K. Killinger, Linda C. Killinger, Stephen J. Rotella, and David C. Schneider (collectively, "Defendants"), hereby stipulate as follows:

On July 1, 2011, Defendants Kerry K. Killinger and Linda C. Killinger, and Defendants Stephen J. Rotella and David C. Schneider, filed separate motions to dismiss various counts of the FDIC's Complaint under Fed. R. Civ. P. 12(b)(6) and Local Civil Rule 7 [Dkt. 53, 55]. Pursuant to this Court's July 26, 2011 Scheduling Order [Dkt. 60], the FDIC's responses to these motions are due by August 22.

STIPULATION RE: OVERLENGTH BRIEF IN RESPONSE TO MOTIONS TO DISMISS - 1  
No. 2:11-cv-00459-MJP  
#810964 v1 / 44469-001

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1 Ordinarily, the FDIC would file two separate briefs, each a maximum of 24 pages. *See*  
2 Local Civil Rule 7(e)(3). However, because certain of Defendants' arguments overlap, such as  
3 their asserted business judgment rule defense, the FDIC believes it will be more efficient to  
4 respond to those motions in a single opposition brief of up to 40 pages (not including the Table  
5 of Contents and Table of Authorities). The FDIC and Defendants therefore have stipulated  
6 pursuant to Local Rule 7(f) that, subject to the Court's approval, the FDIC may file a single  
7 opposition brief of up to 40 pages jointly responding to both motions. This Stipulation does not  
8 affect the Defendants' ability to file separate 12-page reply briefs.

9 Dated: August 10, 2011.

10 Respectfully submitted,

11 FEDERAL DEPOSIT INSURANCE  
12 CORPORATION, as Receiver for  
13 WASHINGTON MUTUAL BANK,  
14 *Plaintiff*

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10 ORDER

11 IT IS SO ORDERED.

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13 Dated this \_\_\_\_ day of August, 2011.

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15 \_\_\_\_\_  
16 Honorable Marsha J. Pechman  
17 United States District Judge  
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STIPULATION RE: OVERLENGTH BRIEF IN  
RESPONSE TO MOTIONS TO DISMISS - 4  
No. 2:11-cv-00459-MJP  
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1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on August 10, 2011, the foregoing was electronically filed with the  
3 Clerk of the Court using the CM/ECF system which will send notification of such filing to all  
4 counsel of record who receive CM/ECF notification, and that the remaining parties shall be  
5 served in accordance with the Federal Rules of Civil Procedure.  
6

7  
8 /s Walter E. Barton  
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STIPULATION RE: OVERLENGTH BRIEF IN  
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