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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
SOUTHERN DIVISION**

**IN RE MEDICAL CAPITAL SEC.  
LITIG.**

LEAD CASE NO. SA-10-ML-02145  
DOC (RNBx)

This document relates to:

**STIPULATION TO (1) PERMIT  
NOTEHOLDERS TO FILE  
SURREPLY IN OPPOSITION TO  
RECEIVER'S MOTION FOR  
APPROVAL OF SETTLEMENT  
AND (2) CONTINUE HEARINGS**

Case No: SA-CV-09-01048 DOC (RNBx)

Case No: SA-CV-10-06561 DOC (RNBx)

Case No: SA-CV-10-00548 DOC (RNBx)

Case No: SA-CV-09-00818 DOC (RNBx)

Existing Date: October 15, 2012  
Proposed Date: October 29, 2012  
Time: 8:30 a.m.  
Courtroom: 9D  
Hon. David O. Carter

**STIPULATION TO MOVE HEARING DATE;** Lead Case No. SA-10-ML-02145 DOC (RNBx)

1 This stipulation is made by and among Plaintiffs in the Noteholder Actions,<sup>1</sup>  
2 Defendant Wells Fargo Bank, N.A. (“Wells Fargo”), Defendant The Bank of New  
3 York Mellon (“BNYM” and with Wells Fargo, the “Trustees), and Thomas  
4 Seaman, the court-appointed Receiver (the “Receiver”), through their respective  
5 counsel. The Plaintiffs, Receiver and Trustees are referred to herein collectively as  
6 the “Parties.”

7 **RECITALS**

8 WHEREAS, on June 11, 2012, the Receiver filed a motion for approval of  
9 settlement with the Trustees (“Approval Motion”). The Trustees subsequently  
10 filed joinders in the Approval Motion. That same day, the Plaintiffs and Trustees  
11 each filed their own respective motions for summary judgment and/or adjudication  
12 (“Summary Judgment Motions”). All motions are set for hearing on October 15,  
13 2012.

14 WHEREAS, on October 1, 2012, the Receiver, Wells Fargo and BNYM  
15 filed separate Reply memoranda in support of the Receiver’s Approval Motion.

16 WHEREAS, the Noteholders assert that the Reply papers improperly  
17 included new argument and evidence required to be included in the original  
18 moving papers, and which should be stricken or not considered without giving the  
19 Noteholders an opportunity to respond by a Sur-Reply.

20 WHEREAS, the Receiver and Trustees dispute the assertion that the Reply  
21 papers improperly included new material; do not believe that a Sur-reply is  
22 necessary; but do not object to the Court having the benefit of whatever the  
23

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25  
26 <sup>1</sup> The Noteholder Actions are: *Masonek, et al. v. Wells Fargo Bank,*  
27 *National Association, et al.*, Case No. SACV 09-1048 DOC (RNBx); *Abbate, et al.*  
28 *v. Wells Fargo Bank, National Association, et al.*, Case No. SACV 10-6561 DOC  
(RNBx); and *Bain, et al. v. Wells Fargo Bank, National Association, et al.*, Case  
No. SACV 10-0548 DOC (RNBx).

1 Noteholders might wish to submit by way of a brief Sur-Reply. The Receiver  
2 further states that October 29, 2012 is the only date on which all counsel necessary  
3 for the hearing are available, until at least December.

4 WHEREAS, the parties met and conferred regarding this issue and reached  
5 an agreement, as set forth below, which appears to avoid substantial briefing on  
6 the issue, and which provides that, subject to Court approval, the hearing on the all  
7 motions be continued a short time to permit Plaintiffs to file a Sur-Reply  
8 memorandum on the Approval Motion.

9 **JOINT STIPULATION**

10 THE PARTIES HEREBY STIPULATE AND AGREE AS FOLLOWS:

11 1. Plaintiffs may file a Sur-Reply memorandum in response to the  
12 Receiver’s Approval Motion, no longer than 15 pages, and any additional  
13 supporting evidence, no later than October 19, 2012.

14 2. The hearing on the Receiver’s Approval Motion and the Plaintiffs’  
15 and Trustees’ Summary Judgment Motions shall be continued from October 15,  
16 2012 to October 29, 2012, at 8:30 a.m., or on a date and time thereafter that is  
17 convenient for the Court.

18 **IT IS SO STIPULATED.**

19 Respectfully submitted,

20 Dated: October 4, 2012

21 **COTCHETT, PITRE & MCCARTHY LLP**

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