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8 UNITED STATES DISTRICT COURT  
9 CENTRAL DISTRICT OF CALIFORNIA  
10 SOUTHERN DIVISION

SHARTSIS FRIESE LLP  
ONE MARITIME PLAZA  
EIGHTEENTH FLOOR  
SAN FRANCISCO, CA 94111

12 SECURITIES AND EXCHANGE  
COMMISSION,  
13  
14 Plaintiff,  
15 v.  
16 MEDICAL CAPITAL HOLDINGS,  
INC.; MEDICAL CAPITAL  
17 CORPORATION; MEDICAL  
PROVIDER FUNDING  
18 CORPORATION VI; SIDNEY M.  
FIELD; and JOSEPH J.  
LAMPARIELLO,  
19  
20 Defendants.

Case No. SACV 09-818 DOC (RNBx)  
**NOTICE OF STIPULATION AND  
PROPOSED ORDER FILED IN  
RELATED PROCEEDING**  
Judge: Hon. David O. Carter  
Court Room: 9D

1 PLEASE TAKE NOTICE that Thomas Seaman (the "Receiver"), Bank of  
2 New York Mellon and Wells Fargo Bank, N.A. (collectively, "the Trustees"), and  
3 the Plaintiffs in the Noteholder Actions<sup>1</sup> have entered into a stipulation and filed a  
4 proposed order granting the terms of the stipulation in the related case of *In re*  
5 *Medical Capital Securities Litigation*, Case No. SA-10-ML-02145 DOC (RNBx).  
6 The stipulation and proposed order are attached hereto as Exhibits A and B,  
7 respectively. Among other things, the stipulation and proposed order modify the  
8 briefing schedule and hearing date of the Receiver's Motion to Approve Settlement,  
9 the Trustees' Motions for Summary Judgment, and the Plaintiffs' Motion for  
10 Summary Adjudication.

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13 DATED: July 24, 2012

SHARTSIS FRIESE LLP

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By: /s/ Frank A. Cialone

FRANK A. CIALONE

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Attorneys for Receiver  
THOMAS SEAMAN

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<sup>1</sup> The Noteholder Actions are: *Masonek, et al. v. Wells Fargo Bank, National Association, et al.*, Case No. SACV 09-1048 DOC (RNBx); *Abbate, et al. 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).

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# **EXHIBIT A**

**TO STIPULATION AND PROPOSED ORDER  
FILED IN RELATED PROCEEDING**

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8 Attorneys for Defendant  
9 THE BANK OF NEW YORK MELLON  
10 [Additional Counsel on Signature Pages]

11 UNITED STATES DISTRICT COURT  
12 CENTRAL DISTRICT OF CALIFORNIA  
13 SOUTHERN DIVISION

14 IN RE: MEDICAL CAPITAL  
15 SECURITIES LITIGATION

Case No. SA-10-ML-02145 DOC  
(RNBx)

16 This document relates to:

STIPULATION RE:

17 Case No. SA-CV-09-1048 DOC  
18 (RNBx)

1. STAY OF DISCOVERY AND  
PROCEEDINGS IN "NOTEHOLDER  
ACTIONS" PENDING COMPLETION  
OF MEDIATION

19 STEVEN MASONEK, *et al.* v.  
20 WELLS FARGO BANK, N.A., *et al.*

2. MODIFICATION OF  
SCHEDULE FOR:

21 Case No. SACV 10-6561 DOC  
22 (RNBx)

A. THE RECEIVER'S  
MOTION TO APPROVE  
SETTLEMENT;

23 JAMES ABBATE, *et al.* v.  
24 WELLS FARGO BANK, N.A., *et al.*

B. THE TRUSTEE  
DEFENDANTS' MOTIONS FOR  
SUMMARY JUDGEMENT; AND

25 Case No. SACV 10-0548 DOC  
26 (RNBx)

C. THE NOTEHOLDER  
PLAINTIFFS' MOTION FOR  
SUMMARY ADJUDICATION

27 KENNETH BAIN, *et al.* v.  
28 WELLS FARGO BANK, N.A., *et al.*

3. MODIFICATION OF PRE-  
TRIAL AND TRIAL SCHEDULING  
ORDER

Case No. SACV 09-0818 DOC  
(RNBx)

EXISTING DATE: August 27, 2012  
PROPOSED DATE: October 15,  
2012

SECURITIES AND EXCHANGE  
COMMISSION v.  
MEDICAL CAPITAL HOLDINGS,  
INC., *et al.*

TIME: 8:30 a.m.  
COURTROOM: 9D  
JUDGE: Hon. David O. Carter

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”), Thomas Seaman, the court-appointed Receiver (the  
4 “Receiver”), and the Securities and Exchange Commission (the “SEC”), through their  
5 respective counsel. The Plaintiffs, Wells Fargo, BNYM and the Receiver are referred  
6 to herein collectively as the “Parties.”

7 **I. RECITALS**

8 WHEREAS, following the Receiver’s announcement that the Receiver had  
9 agreed to settlements of claims asserted by the Receiver on behalf of the Medical  
10 Capital Special Purpose Corporations against Wells Fargo and BNYM (collectively,  
11 the “Trustees”), and that the Trustees intended to file motions for summary judgment  
12 in the Noteholder Actions, the Court held a status conference on May 16, 2012;

13 WHEREAS, at the status conference the Court ordered the following schedule  
14 for three related sets of motions: the Receiver’s motion for approval of his settlement  
15 with Wells Fargo and BNYM in the action entitled *SEC v. Medical Capital Holdings,*  
16 *Inc., et al.*, Case No. SACV 09-0818 DOC (RNBx) (the “SEC Action”); the Trustees’  
17 motions for summary judgment in the Noteholder Actions; and the Plaintiffs’ motions  
18 for partial summary judgment in the Noteholder Actions (collectively, the “Motions”):

- 19 i. The Motions to be filed on June 10, 2012;  
20 ii. Oppositions to the Motions to be filed on July 23, 2012.  
21 iii. Replies to the Motions to be filed on August 13, 2012.

22 WHEREAS, the Motions were filed on June 10, 2012;

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

1 WHEREAS, at the status conference the Court also ordered the Parties to  
2 participate in a mediation before the Parties' selected mediator, the Honorable John W.  
3 Kennedy (Ret.) (the "Mediator");

4 WHEREAS, the Parties had a full day of mediation on July 11, 2012, and the  
5 Parties and the Mediator have advised the Court that they believe further mediation  
6 sessions may be productive in resolving matters between the Parties; and

7 WHEREAS, the next joint mediation session has been scheduled for August 27,  
8 2012, although each of the Parties will make confidential presentations to the Mediator  
9 prior to that date.

10 **II. JOINT STIPULATION**

11 THE PARTIES AND THE SEC HEREBY STIPULATE AND AGREE AS  
12 FOLLOWS:

13 1. All discovery and proceedings in the Noteholder Actions – except  
14 mediation – shall be stayed from July 12, 2012, through and including August 27,  
15 2012, the next day for a joint mediation session. This stay does not affect the SEC  
16 Action except that Noteholders need not file objections on their own by the July 23  
17 date that the Receiver invited such correspondence, and the briefing schedule on the  
18 motion to approve settlement will go forward as set forth below.

19 2. Unless otherwise agreed by all Parties, the stay shall expire on August 28,  
20 2012. The depositions of Wells Fargo's Fed. R. Civ. P. 30(b)(6) witnesses Mary  
21 Sohlberg and Cheryl Zimmerman, and of former BNYM employee John Bobko, shall  
22 be reset to the week of September 3, 2012. The Parties will confer by August 15, 2012  
23 to reschedule any other depositions noticed as of July 11, 2012, such that they occur  
24 within the same time frame relative to the discovery cut-off as previously noticed.

25 3. The August 27, 2012 hearing on the Motions is taken off calendar.  
26 Unless otherwise agreed by all parties, any oppositions to the Motions shall be due on  
27 September 10, 2012 and replies shall be due on October 1, 2012.

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1 4. The Motions shall be heard on Monday October 15, 2012, at 8:30 a.m.,  
2 or on a date and time thereafter that is convenient for the Court.

3 5. The February 16, 2012 Scheduling Order (10-02145 D.E. 307) in the  
4 Noteholder Actions shall be modified as follows:

5

6 Pre-Trial Event	7 Previously Ordered Date	8 New Date
9 Fact Discovery Cut-Off	10 September 1, 2012	11 October 19, 2012
12 Expert Discovery Cut-Off	13 November 7, 2012	14 January 11, 2013
15 Motion Cut Off	16 March 4, 2013	17 March 11, 2013
18 Pre-Trial Conference	19 March 25, 2013	20 April 1, 2013

21 6. The trial date in the Noteholder Actions of April 16, 2013 at 8:30 a.m.  
22 shall remain unchanged.

23 **IT IS SO STIPULATED.**

24 Respectfully submitted,

25 DATED: July 20, 2012 **MILBERG LLP**

26 /s/ Jeff S. Westerman

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JEFF S. WESTERMAN

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Co-Lead Counsel for Class Plaintiffs

DATED: July 20, 2012

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DATED: July 20, 2012

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Attorneys for Defendant The Bank of New York Mellon

DATED: July 20, 2012

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/s/ Richard W. Epstein

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RICHARD W. EPSTEIN



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DATED: July 20, 2012

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Attorneys for Thomas Seaman, the Receiver

DATED: July 20, 2012

**SECURITIES AND EXCHANGE COMMISSION**

/s/ John B. Bulgozdy

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Commission

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# **EXHIBIT B**

**TO STIPULATION AND PROPOSED ORDER  
FILED IN RELATED PROCEEDING**

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10 THE BANK OF NEW YORK MELLON

11 UNITED STATES DISTRICT COURT  
12 CENTRAL DISTRICT OF CALIFORNIA  
13 SOUTHERN DIVISION

14 IN RE: MEDICAL CAPITAL  
15 SECURITIES LITIGATION

Case No. SA-10-ML-02145 DOC  
(RNBx)

16 This document relates to:

[PROPOSED] ORDER RE STAY OF  
DISCOVERY AND PROCEEDINGS  
IN "NOTEHOLDER ACTIONS"  
PENDING COMPLETION OF  
MEDIATION AND MODIFICATION  
OF PRE-TRIAL AND TRIAL  
SCHEDULING ORDER

17 Case No. SA-CV-09-1048 DOC  
(RNBx)

18 STEVEN MASONEK, *et al.* v.  
19 WELLS FARGO BANK, N.A., *et al.*

EXISTING DATE: August 27, 2012  
PROPOSED DATE: October 15, 2012  
TIME: 8:30 a.m.  
COURTROOM: 9D  
JUDGE: Hon. David O. Carter

20 Case No. SACV 10-6561 DOC  
(RNBx)

21 JAMES ABBATE, *et al.* v.  
22 WELLS FARGO BANK, N.A., *et al.*

23 Case No. SACV 10-0548 DOC  
(RNBx)

24 KENNETH BAIN, *et al.* v.  
25 WELLS FARGO BANK, N.A., *et al.*

26 Case No. SACV 09-0818 DOC  
(RNBx)

27 SECURITIES AND EXCHANGE  
28 COMMISSION v.  
MEDICAL CAPITAL HOLDINGS,  
INC., *et al.*

1 Having reviewed the Stipulation Regarding Stay of Discovery and Proceedings  
2 in “Noteholder Actions” Pending Completion of Mediation and Modification of Pre-  
3 Trial and Trial Scheduling Order filed by Plaintiffs in the Noteholder Actions,<sup>1</sup>  
4 Defendant Wells Fargo Bank, N.A. (“Wells Fargo”), Defendant The Bank of New  
5 York Mellon (“BNYM”), Thomas Seaman, the court-appointed Receiver (the  
6 “Receiver”), and the Securities and Exchange Commission (the “SEC”), and good  
7 cause showing;

8 It is therefore ORDERED that:

9 1. All discovery and proceedings in the Noteholder Actions – except  
10 mediation – shall be stayed from July 12, 2012, through and including August 27,  
11 2012, the next day for a joint mediation session. This stay does not affect the SEC  
12 Action except that Noteholders need not file objections on their own by the July 23  
13 date that the Receiver invited such correspondence, and the briefing schedule on the  
14 motion to approve settlement will go forward as set forth below.

15 2. Unless otherwise agreed by all Parties, the stay shall expire on August 28,  
16 2012. The depositions of Wells Fargo’s Fed. R. Civ. P. 30(b)(6) witnesses Mary  
17 Sohlberg and Cheryl Zimmerman, and of former BNYM employee John Bobko, shall  
18 be reset to the week of September 3, 2012. The Parties will confer by August 15, 2012  
19 to reschedule any other depositions noticed as of July 11, 2012, such that they occur  
20 within the same time frame relative to the discovery cut-off as previously noticed.

21 3. The August 27, 2012 hearing on the Motions is taken off calendar.  
22 Unless otherwise agreed by all parties, any oppositions to the Motions shall be due on  
23 September 10, 2012 and replies shall be due on October 1, 2012.

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

1           4.     The Motions shall be heard on Monday October 15, 2012 at 8:30 a.m.,  
2 or on a date and time thereafter that is convenient for the Court.

3           5.     The February 16, 2012 Scheduling Order (10-02145 D.E. 307) in the  
4 Noteholder Actions shall be modified as follows:

5

<b>Pre-Trial Event</b>	<b>Previously Ordered Date</b>	<b>New Date</b>
Fact Discovery Cut-Off	September 1, 2012	October 19, 2012
Expert Discovery Cut-Off	November 7, 2012	January 11, 2013
Motion Cut Off	March 4, 2013	March 11, 2013
Pre-Trial Conference	March 25, 2013	April 1, 2013

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14           6.     The trial date in the Noteholder Actions of April 16, 2013, at 8:30 a.m.  
15 shall remain unchanged.

16 DATED: July \_\_, 2012

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20 The Honorable David O. Carter  
21 United States District Court Judge  
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