UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

```
---------------------------------------------------------------------- X   Chapter 11
In re:                                                               :
                                                                     :
LEHMAN BROTHERS HOLDINGS INC., et al.,                               :   Case No. 08-13555 (JMP)
                                                                     :
                        Debtors.                                     :
---------------------------------------------------------------------- X
LEHMAN BROTHERS HOLDINGS INC. and                                    :
OFFICIAL COMMITTEE OF UNSECURED                                      :
CREDITORS OF LEHMAN BROTHERS HOLDINGS :                              :   Adversary Proceeding
INC., et al.                                                         :
                                                                     :   No. 10-03266 (JMP)
                        Plaintiff and                                :
                        Plaintiff Intervenor                         :
                                                                     :
            -against-                                                :
                                                                     :
JPMORGAN CHASE BANK, N.A.,                                           :
                                                                     :
                        Defendant.                                   :
---------------------------------------------------------------------- X
```

FOURTH AMENDED SCHEDULING ORDER AND DISCOVERY PLAN

WHEREAS, Plaintiff Lehman Brothers Holdings Inc. ("LBHI") and Plaintiff

Intervenor Official Committee of Unsecured Creditors of Lehman Brothers Holdings Inc.

("Plaintiffs") filed an adversary complaint against defendant JPMorgan Chase Bank, N.A.

("JPMorgan" and, together with Plaintiffs, the "Parties") on May 26, 2010 (the "Complaint");

WHEREAS, the Parties agreed to a Scheduling Order and Discovery Plan and to a

Stipulated Order Setting Pleading Motion and Response Dates on June 28, 2010, to an Amended

Scheduling Order and Discovery Plan on September 27, 2010, to a Second Amended Scheduling

Order and Discovery Plan on November 24, 2010, and to a Third Amended Scheduling Order

and Discovery Plan on March 2, 2011 (the "Scheduling Orders");

WHEREAS, Plaintiffs filed an amended complaint on September 15, 2010 (the

"First Amended Complaint") pursuant to Federal Rule of Civil Procedure 15(a)(1)(B);

WHEREAS, pursuant to the Scheduling Orders, the Parties have fully briefed JPMorgan's motion to dismiss the First Amended Complaint, filed on October 19, 2010 ("JPMorgan's Motion to Dismiss");

WHEREAS, JPMorgan filed Amended Counterclaims on February 17, 2011 (the "Amended Counterclaims");

WHEREAS, the Parties have reached agreement on the terms of this Third Amended Scheduling Order and Discovery Plan, and intend this Third Amended Scheduling Order and Discovery Plan to supersede the prior Scheduling Orders;

NOW, THEREFORE, the Court hereby adopts the following stipulated schedule and discovery plan, superseding the prior Scheduling Orders.

1. **Schedule**:

   a. **Pleading Motions**:

      i. JPMorgan shall answer any and all parts of the First Amended Complaint on or before the date 30 calendar days after the Court's issuance of an order determining the Motion to Dismiss.

      ii. Plaintiffs shall respond to the Amended Counterclaims on or before April 4, 2011;

      iii. JPMorgan shall file its opposition to any motion directed to the Amended Counterclaims not later than 60 calendar days following the filing of such motion.

      iv. Plaintiffs shall file their reply in further support of any motion directed to any counterclaims not later than 45 calendar days following JPMorgan's filing of its opposition to such motion.

v. For the avoidance of doubt, the provisions of Federal Rule of Bankruptcy Procedure 9006 shall apply to the computation of time periods specified in this Stipulated Order.

b. **Fact Discovery**:

i. Privilege logs shall be served within 30 days of the production from which the logged documents have been excluded, and the logging of privileged documents shall be substantially completed on or before March 21, 2011.

ii. All fact discovery, including depositions, shall be completed on or before December 15, 2011.

iii. The parties are entitled to take third party discovery on the same schedule as party fact discovery.

c. **New Parties and Claims**:

i. Any party may apply to the Court in accordance with applicable Federal Rules of Bankruptcy Procedure, Federal Rules of Civil Procedure, and Local Rules to amend the pleadings or to add new claims or parties. Nothing in this Stipulated Order will be deemed to waive or abridge any right to amend the pleadings as a matter of course pursuant to Federal Rule of Civil Procedure 15(a)(1).

d. **Expert Discovery**:

i. The Parties shall disclose the identities of any testifying expert witnesses and serve any expert reports pursuant to Fed. R. Civ. P. 26(a)(2)(B) (made applicable to this matter pursuant to Fed. R. Bankr. P. 7026) on any issue(s) as to which that party bears the burden of proof no later than January 31, 2012.

ii. Any Party's expert report intended to rebut any other expert report shall be served no later than March 31, 2012.

iii. All expert depositions shall be completed on or before April 30, 2012.

    e. **Dispositive Motions**:

i. Any dispositive motions shall be filed and served on or before April 20, 2012.

ii. Oppositions to any dispositive motions shall be filed on or before June 15, 2012.

iii. Reply briefs in further support of any dispositive motions shall be filed on or before July 13, 2012.

    f. **Trial**:

i. The Court shall hold a final pre-trial conference on July 13, 2012, or as soon thereafter as is convenient for the Court's schedule, including with respect to its disposition of any dispositive motions.

ii. Trial shall begin on August 13, 2012, or as soon thereafter as is convenient for the Court's schedule.

    g. **Modification of Schedule**:

i. The fact and expert discovery schedule (including with respect to Requests for Admission) may be modified without leave of Court by agreement of the parties.

ii. The Parties, separately or by agreement, may apply to the Court for modification of any part of the schedule.

2. **Discovery**:

    a. **Discovery Pursuant to the Rules**: All discovery in the above-captioned action shall proceed in accordance with applicable Federal Rules of Bankruptcy Procedure, Federal Rules of Civil Procedure, and Local Rules, except as otherwise ordered by the Court or as specified herein.

    b. **Initial Disclosures**: No Party is required to serve initial disclosures pursuant to Fed. R. Civ. P. 26(a)(1).

    c. **Depositions Without Leave**: The limit of 10 depositions per side without leave of Court imposed by Fed. R. Civ. P. 30(a)(2)(A)(i) shall not apply to these proceedings.

    d. **Requests for Admission**: Requests for admissions shall be served on or before December 16, 2011. No response to any request for admission shall be required of any party until January 31, 2012, by which time responses to all requests for admission must be served.

    e. **Document Production and E-Discovery**:

        i. **Custodians and Search Terms**:

            (1) *Search Filters.* The Parties shall meet and confer and agree on search filters to be employed in searching for and collecting responsive documents before any such search filters are used. Each party shall disclose the custodians whose files it has searched for responsive documents.

            (2) *Electronic Searches.* Each Party shall search the e-mail files and other electronic documents of each of its designated custodians for all e-mails and other electronic documents satisfying the designated search filters. With regard to electronic documents other than emails, each Party shall search for responsive documents in (i) the files of

the designated custodians that are reasonably accessible by the Party and (ii) the general shared

files of departments, divisions or business units in which any designated custodian is a member

that are reasonably believed to hold potentially responsive documents and are reasonably

accessible by the Party, and which shall be identified by the Party.

(3)   *Supplementation of Search Filters*. If a Party is or becomes

aware that it has potentially responsive documents in its possession, custody or control which

would not otherwise be produced and which (i) employ terms (such as synonyms, misspellings,

idioms, code words or non-English terms) equivalent in meaning to keywords employed in the

search filter, and (ii) would satisfy the filter if such equivalent terms were included in the search

filter, it must promptly disclose that fact and meet and confer with opposing counsel to discuss

appropriate means to identify, review and produce such responsive documents.

ii.   **Form of Production**:

(1)   *E-mails*. E-mails shall be produced as single-page or multi-

page TIFF images with accompanying full text and load file (DAT). Meta data fields included

with the load file should be provided in accordance with Appendix A. E-mail attachments shall

be handled according to the provisions below applicable to loose electronic documents and shall

not be separated from the emails to which they are attached. Native files for e-mails shall be

maintained, and such files shall be produced if the receiving party can demonstrate a need for

such native files.

(2)   *Electronic Documents.* Word and other electronic

documents shall be produced as single-page or multi-page TIFF images with accompanying full

text and load file (DAT). Meta data fields included with the load file should be provided in

accordance with Appendix A. For Excel or other spreadsheet files, the native file shall be

produced. Native files for all other electronic documents shall be maintained, and such files shall be produced if the receiving party can demonstrate a need for such native files.

(3)   *Hard copy documents*. Hard copy documents shall be produced as single-page or multi-page TIFF images with accompanying full OCR text and load file (DAT). Meta data fields included with the load file should be provided in accordance with Appendix A.

(4)   *TIFF Images Generally*. Any TIFF images produced by the Parties shall consist of (a) single-page or multi-page, black and white, 300dpi group IV TIFF images with extension ".tif' and (b) text files, named after the bates number of the document, with extension ".txt". TIFF images may not be compressed using JPEG compression. Metadata shall be provided in a delimited file with a ".dat" file extension and ASCII 020 and 254 delimiters for column break and text qualifier. The first line shall be the header with field names, and each subsequent line shall contain the fielded data for each document.

(5)   *Shipment of electronic data.* Electronic data productions may be transmitted electronically via Secure File Transfer Protocol (SFTP), FTP over SSH or physically transported using electronic storage media such as flash memory devices, CDs, DVDs or hard drives. The physical media label should contain the case name and number, production date, and bates range being produced. Each transmission of data should include a collection "manifest" report which provides a list of files collected, their location, and their MD5 hash values.

f.   **Inadvertently-Produced Material**: In accordance with Fed. R. Civ. P. 26(b)(5)(B) and Fed. R. Evid. 502(b), any inadvertent disclosure of document(s) shall not be deemed a waiver of, nor prejudice to, any privilege or immunity with respect to such information

or document(s) or of any work product doctrine or other immunity that may attach thereto, including without limitation the attorney-client privilege, the joint defense privilege, and the work product doctrine, provided that the producing party notifies the receiving party in writing promptly after discovery of such inadvertent production. All copies of such document(s) shall be returned to the producing party or destroyed within five days of such notice. Also within five days of such notice, the producing party shall serve a privilege log for the document(s). The producing party shall maintain the referenced document(s) until the parties resolve any dispute concerning the privileged nature of the document(s) or the Court rules on any motion to compel the document(s). No Party shall use or refer to any information contained within the document(s) at issue unless and until the producing Party agrees or a motion to compel is granted by the Court.

g.   **Confidentiality**: Each document produced shall include a confidentiality label designating it consistent with the terms of the confidentiality stipulation agreed upon by the parties.

h.   **Cost of Production**: The parties shall bear the costs associated with their own productions.

DATED: July 11, 2011   QUINN EMANUEL URQUHART &
                                        SULLIVAN, LLP

                                        By   /s/ Erica Taggart
                                             John B. Quinn
                                             Susheel Kirpalani
                                             Andrew J. Rossman
                                             Erica Taggart
                                             James C. Tecce
                                             Counsel for Plaintiff Intervenor Official
                                             Committee of Unsecured Creditors of Lehman
                                             Brothers Holdings Inc.

DATED: July 11, 2011   CURTIS, MALLET-PREVOST, COLT & MOSLE
                                        LLP

                                        By   /s/ Joseph D. Pizzurro
                                             Joseph D. Pizzurro
                                             L.P. Harrison 3rd
                                             Michael J. Moscato
                                             Nancy E. Delaney
                                             Peter J. Behmke
                                             Cindi M. Eilbott
                                             Counsel for Plaintiff, Debtor Lehman Brothers
                                             Holdings Inc.

DATED: July 11, 2011   WACHTELL, LIPTON, ROSEN & KATZ

                                        By   /s/ Ian Boczko
                                             Paul Vizcarrondo
                                             Marc Wolinsky
                                             Amy R. Wolf
                                             Ian Boczko
                                             Counsel for Defendant JPMorgan Chase Bank,
                                             N.A.

IT IS SO ORDERED:

Dated: New York, New York
       July 27, 2011

             s/ James M. Peck
       Honorable James M. Peck
       United States Bankruptcy Judge

APPENDIX A

Field	Description
BegBates	Page ID of first page in a document.
EndBates	Page ID of last page in a document.
BegAttach	BegBates of parent record.
EndAttach	BegBates of last attached document in family.
From	Author of the e-mail message.
To	Main recipient(s) of the e-mail message.
CC	Recipient(s) of "Carbon Copies" of the e-mail message.
BCC	Recipient(s) of "Blind Carbon Copies" of the e-mail message.
DateSent	Sent date of an e-mail message.
TimeSent	Time the e-mail message was sent.
EMail_Subject	Subject of the e-mail message.
Author	Author field value pulled from metadata of the native file.
Title	Title field value extracted from the metadata of the native file.
Custodian	Textual value of custodian.
DateCreated	Creation date of the native file.
TimeCreated	Creation time of the native file.
EntryID	Unique identifier of e-mails in mail stores.
FileDescription	File extension or other description of native file type.
Filename	Original filename of native file. Contains subject of e-mail message for e-mail records.
Filesize	Size of native file, in bytes.
MD5Hash	MD5 hash-128-bit output.
Attach	Semi-colon delimited string of first level attachments in the e-mail.
DateLastMod	Date the native file was last modified.
TimeLastMod	Time native file was last modified.
PgCount	Number of pages in a document.
NativeFile	Logical file path to the native file.
OCRPath	Logical file path to the OCR text.