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 11 DOCTORS MEDICAL CENTER OF MODESTO, INC.

12 UNITED STATES DISTRICT COURT
 13 EASTERN DISTRICT OF CALIFORNIA

14 DOCTORS MEDICAL CENTER OF
 15 MODESTO, INC., a California
 16 for-profit corporation

17 Plaintiff,

18 vs.

19 THE GUARDIAN LIFE INSURANCE
 20 COMPANY OF AMERICA, a New
 21 York for-profit corporation; VIANT
 22 PAYMENT SYSTEMS, INC., an
 23 Illinois for-profit corporation; and
 24 DOES 1 THROUGH 25, INCLUSIVE

25 Defendants.

CASE No. 1:08-CV-00903-OWW-GSA
 STIPULATION TO DISMISS VIANT
 PAYMENT SYSTEMS, INC. WITH
 PREJUDICE

[F.R.C.P. 41(a)(1)(ii)]

26 PLAINTIFF, DOCTORS MEDICAL CENTER OF MODESTO, INC., a
 27 California for-profit corporation, and Defendants, VIANT PAYMENT SYSTEMS,
 28 INC., an Illinois for-profit corporation and THE GUARDIAN LIFE INSURANCE
 COMPANY OF AMERICA, a New York for-profit corporation by and through

1 their respective counsel of record, hereby agree and stipulate to dismiss the action
2 as to VIANT PAYMENT SYSTEMS, INC., with prejudice pursuant to Federal
3 Rules of Civil Procedure, Rule 41(a)(1)(ii), and that Plaintiff, Doctors Medical
4 Center of Modesto, Inc. and Defendant Viant Payment Systems, Inc., shall bear its
5 own attorneys' fees and costs in this matter.

6 DATED: October 13, 2009

STEPHENSON, ACQUISTO & COLMAN

7 By: _____ /s/

8 OLIVER TOMAS
9 Attorney for Plaintiff,
10 DOCTORS MEDICAL CENTER
OF MODESTO, INC.

11 DATED: October 8, 2009

BEAM, BROBECK, WEST, BROGES
& ROSA, LLP.

13 By: _____ /s/

14 GLEN A. STEBENS, ESQ.
15 Attorneys for Defendant,
16 VIANT PAYMENT SYSTEMS

17 DATED: October 8, 2009

BURKE, WILLIAMS, & SORENSON, LLP.

18 By: _____ /s/

19 STEPHEN H. GALTON
20 KEIKO J. KOJIMA
21 Attorneys for Defendant,
22 THE GUARDIAN LIFE
INSURANCE COMPANY OF
23 AMERICA

24 **IT IS SO ORDERED:**

25 DATED: October 14, 2009

26 By: /s/ OLIVER W. WANGER

27 Hon. Oliver W. Wanger
28 Judge of the United States District Court