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5 Attorneys for Plaintiff  
 6 ASPEX EYEWEAR, INC.

7  
 8 **UNITED STATES DISTRICT COURT**  
 9 **FOR THE EASTERN DISTRICT OF CALIFORNIA**

11 ASPEX EYEWEAR, INC.,	)	CASE NO. 2:10 CV 00632 JAM-GGH
	)	
12 Plaintiff,	)	<b>STIPULATION AND ORDER</b>
	)	<b>GRANTING ASPEX EYEWEAR, INC.</b>
13 v.	)	<b>LEAVE TO FILE A FIRST AMENDED</b>
	)	<b>COMPLAINT</b>
	)	
15 VISION SERVICE PLAN; MARCHON	)	<b>COMPLAINT FILED:</b> March 17, 2010
EYEWEAR, INC.; ALTAIR EYEWEAR, INC.,	)	<b>JUDGE:</b> Hon. John A. Mendez
	)	
16 Defendants.	)	
	)	
	)	
	)	

19 Plaintiff Aspex Eyewear, Inc. ("Aspex") filed a Complaint naming as Defendants  
 20 Vision Service Plan ("VSP"), Marchon Eyewear, Inc. ("Marchon"), and Altair Eyewear, Inc.  
 21 on March 17, 2010. Aspex filed a Notice of Voluntary Dismissal Without Prejudice as to  
 22 Defendants Marchon and Altair Only on May 28, 2010. VSP filed a motion to dismiss on April  
 23 30, 2010, more than twenty-one days ago. Aspex now seeks to file an Amended Complaint in  
 24 which it amends the allegations as to VSP. Fed. R. Civ. P. 15(a)(2) permits a party to file an  
 25 amended complaint after the time has elapsed to file an amendment as a matter of course, "with  
 26 the opposing party's written consent or the court's leave."

1 WHEREFORE, IT IS HEREBY STIPULATED by and between Aspex and VSP  
2 through their respective attorneys of record that Plaintiff Aspex may file an Amended  
3 Complaint, a copy of which is attached hereto.

4 IT IS FURTHER STIPULATED that the attached Amended Complaint shall be deemed  
5 filed and properly served on the date this stipulation is filed with the Court and electronically  
6 served on counsel for VSP.

7 IT IS FURTHER STIPULATED that VSP shall have until August 27, 2010 to file and  
8 serve a response to the Amended Complaint.

9  
10 DATED: July 2, 2010

GREENBERG TRAURIG, LLP

11 By: /s/ Nancy J. Doig

12 Kathleen E. Finnerty (SBN 157638)

13 Nancy J. Doig (SBN 226593)

14 Attorneys for Plaintiff

ASPEX EYEWEAR, INC.

15 DATED: July 2, 2010

REINHART BOERNER VAN DEUREN S.C.

17 By: /su Scott W. Hansen (as authorized 7/2/10)

18 Scott W. Hansen (Admitted Pro Hac Vice)

19 Attorneys for Defendant

20 VISION SERVICES PLAN  
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**ORDER**

PURSUANT TO STIPULATION, LEAVE TO FILE PLAINTIFF ASPEX EYEWEAR, INC.'S AMENDED COMPLAINT ATTACHED HERETO IS GRANTED. THE AMENDED COMPLAINT IS DEEMED FILED AND PROPERLY SERVED AS OF THE DATE THE STIPULATION WAS FILED AND ELECTRONICALLY SERVED UPON COUNSEL FOR DEFENDANT VISION SERVICE PLAN. DEFENDANT VISION SERVICE PLAN SHALL HAVE UNTIL AUGUST 27, 2010 TO FILE AND SERVE A RESPONSE TO THE AMENDED COMPLAINT.

Dated: July 7, 2010

/s/ John A. Mendez  
JOHN A. MENDEZ  
United States District Court Judge