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11 UNITED STATES DISTRICT COURT
12 EASTERN DISTRICT OF CALIFORNIA

13 KATHLEEN GARCIA,

14 Plaintiff,

15 vs.

16 STANDARD LIFE INSURANCE
17 COMPANY, et al.

18 Defendants.

19 Case No.: 2:13-cv-02164-WBS-CKD

20 STIPULATION AND ~~PROPOSED~~
21 ORDER TO EXTEND DISCOVERY
22 COMPLETION DATE

23 No hearing set or required.

24 Before the Honorable Carolyn K.
25 Delaney, Magistrate Judge

26 Plaintiff Kathleen Garcia and Defendant Standard Insurance Company
27 (“Standard”), erroneously sued as Standard Life Insurance Company, stipulate and
28 respectfully request that the Court enter an order continuing the last date to
complete discovery for this matter for some 60 days from November 14, 2014 up
to and including January 14, 2015. Plaintiff Kathleen Garcia and Standard are
sometimes hereinafter collectively referred as “the Parties.”

The Parties stipulate to and respectfully ask the Court to consider the
following:

1. This request is directed to the Magistrate Judge pursuant to the Court’s

1 January 28, 2014 Status (Pretrial Scheduling) Order, IX. MODIFICATIONS TO
2 SCHEDULING ORDER (PACER Doc 9, p 5 of 5), which provides that “Any
3 requests to modify the dates or terms of this Scheduling Order, except requests to
4 change the date of the trial, may be heard and decided **by the assigned Magistrate**
5 **Judge.**” Emphasis added.

6 2. There have been no prior requests to extend any case deadline and the
7 Parties do not seek extension of any case deadline other than the discovery cut-off,
8 e.g., the motion filing cut-off date, nor is there any current anticipated need that
9 any such request will be necessary.

10 3. There is “**Good Cause**” to extend the discovery cut off based on each of the
11 following considerations:

- 12 • The Parties have been diligent and have responsibly managed this case.

13 Document discovery in this case is substantially completed. Each of the Parties
14 has also exchanged and responded to the other side’s interrogatories and
15 requests for production and more than 30 subpoenas have been served. The
16 Parties and third parties have collectively produced about 20,000 pages of
17 records. The Parties’ responsible management of this case is reflected in the
18 fact that Court has not to date been required to become involved in the
19 resolution of any discovery or other dispute.

- 20 • The deposition of the Plaintiff was taken on September 29, 2014.

21 • Thereafter, on October 6, 2014, counsel for the Parties agreed to hold a
22 private mediation, select a mutually acceptable mediator and schedule and share
23 the costs of a private mediation to try to settle this case.

24 • Within one day, the Parties agreed to utilize Ramsay “Buzz” Wiesenfeld
25 Esq as their mediator (the “Mediator”). The first available date on the
26 Mediator’s calendar was October 28, 2014, which is the date the Parties’
27 selected.

- 28 • With a view, pending the mediation, to conserving substantial resources to

1 proceed with deposition discovery that could better be directed toward
2 settlement, the Parties agreed not to proceed with deposition discovery and to
3 seek a continuance of the discovery deadline if the case did not settle at the
4 private mediation.

5 • The private mediation was duly held as scheduled before the Mediator on
6 October 28, 2014 in Sacramento. Standard's authorized settlement
7 representative attended in person from Portland, Oregon, as well as the Plaintiff
8 and counsel for each party. The case did not settle and so the Parties have
9 agreed, subject to the Court's approval, that remaining discovery should
10 resume. While the mediation was ultimately unsuccessful, that is not the only
11 marker for assessing whether a brief discovery hiatus was in order. The Parties
12 thus hasten to add that the result of the mediation was substantially to reduce
13 the settlement gap between the Parties by a factor of almost **six times**, which
14 did represent some substantial progress toward settlement, and, in the Parties'
15 view, more than justifies a deposition discovery hiatus of about a month.

16 • The Court may wonder, considering that the discovery hiatus was 30 days,
17 why the parties are now seeking a 60-day extension of the discovery completion
18 date. The answer is that the Holiday season is quickly approaching and we are
19 encountering issues with scheduling due to the unavailability of witnesses with
20 family commitments and who have long-prior scheduled time away from work.

21 • There is, additionally, yet another compelling factor supporting this request
22 to extend the date by which discovery must be completed. In the development
23 and management of this case as well as approximately 70 other long-term
24 disability cases, Plaintiff's counsel has been dependent upon the services of a
25 dedicated paralegal. She was the "point person" for this particular case.
26 Unfortunately, this uniquely valuable paralegal, who has worked with
27 Plaintiff's counsel for over 11 years, has been unavailable due to a medical
28 condition and on medical leave since September 22, 2014 . Her absence has

1 resulted in much of her work falling to Plaintiff's counsel. This unforeseen
2 circumstance has placed and continues to place substantial additional demands
3 on the time of Plaintiff's counsel and has substantially reduced his availability
4 to complete discovery prior to November 14, 2014, the current discovery
5 completion date.

6 • In all the foregoing circumstances and on the understanding that no other
7 case deadlines are involved or expected to be involved, the Parties respectfully
8 submit that there is **Good Cause** to extend the last day to complete discovery
9 from November 14, 2014 up to and including January 14, 2015.

10 • The Parties understand and acknowledge that the term "completed" as
11 applied to discovery is as per the guidelines the Court has already set forth in
12 the January 28, 2014 Status (Pretrial Scheduling) Order, IV. DISCOVERY
13 (PACER Doc 9, pp 2-3 of 5).

14 • It is understood that the Court retains jurisdiction to make such amendments,
15 modifications, and additions to this Order as it may deem appropriate.

16 **IT IS SO STIPULATED.**

17 Dated: October 31, 2014

18 s/ Warren H. Nelson, Jr.
19 WARREN H. NELSON, JR.
20 A PROFESSIONAL CORPORATION
21 6161 El Cajon Boulevard, # 273
22 San Diego, CA 92115

23 Attorney for Defendant
24 STANDARD INSURANCE COMPANY,
25 erroneously sued as Standard Life Insurance
26 Company
27
28

1 **IT IS SO STIPULATED.**

2 Dated: October 31, 2014

3 /s/ David Allen
4 David Allen

5 DAVID ALLEN & ASSOCIATES
6 5230 Folsom Boulevard
7 Sacramento, CA 95819

8 Attorneys for Plaintiff
9 KATHLEEN GARCIA

10 The Court has reviewed the Parties' stipulation above, and, finding that there
11 is **Good Cause** for the same, Orders that the time to complete discovery, with the
12 meaning assigned to the terms "complete" or "completed" as set forth in the
13 January 28, 2014 Status (Pretrial Scheduling) Order, IV. DISCOVERY (PACER
14 Doc 9, pp 2-3 of 5) is hereby extended from November 14, 2014 up to and
15 including January 14, 2015.

16 **IT IS SO ORDERED.**

17 **Dated: November 4, 2014**

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20 CAROLYN K. DELANEY
21 UNITED STATES MAGISTRATE JUDGE
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