

1 WARREN H. NELSON, JR., # 104744
 2 A PROFESSIONAL CORPORATION
 3 6161 El Cajon Blvd., # 273
 4 San Diego, CA 92115
 Telephone: 619 269 4212
 Facsimile: 619 501 7948
 Email: nelson@rolando.sdcoxmail.com

5 Attorney for Defendant
 6 Standard Insurance Company

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 8 UNITED STATES DISTRICT COURT
 9 EASTERN DISTRICT OF CALIFORNIA

10
 11 KATHLEEN GARCIA,
 12 Plaintiff,

13 vs.

14
 15 STANDARD INSURANCE
 16 COMPANY, et al.

17 Defendants.
 18

) Case No.: 2:13-cv-02164-WBS-CKD
)
) STIPULATION AND ORDER RE
) TRIAL PROCEDURES
)
) No hearing set or required.
)
) Bench Trial: July 14, 2015
)
) Before the Honorable William B.
) Shubb, Judge, Courtroom No. 5

19 Plaintiff Kathleen Garcia and Defendant Standard Insurance Company
 20 (“Standard”) (collectively, the “Parties”) respectfully submit that it is in everyone’s
 21 interest to streamline trial of this matter. Therefore, subject to the Court’s
 22 approval, the Parties stipulate as follows to allow for streamlining of the bench trial
 23 and related procedures:

- 24 1. The Court is familiar with the issues in this case, having already entertained
 25 and reviewed substantial briefing and evidence therewith submitted by the
 26 Parties in connection with Standard’s February 2015 partial summary
 27 judgment motion and heard extensive argument on April 20, 2015.

28 Accordingly, in the upcoming bench trial, the Parties want to avoid the

1 expense of preparing and presenting opening and closing statements and to
2 save Court time that would be taken up hearing these. The Parties agree
3 there shall be no opening or closing statements. The Court, to the extent
4 that it wishes additional argument after the close of evidence, shall, of
5 course, retain the option of ordering the Parties to submit such other and
6 further matter, including closing arguments, as it may wish to require.

7 2. Standard's trial witness, Kathryn Somner, of Portland, Oregon, has a
8 confidential medical issue that precludes her, on orders from her physician,
9 from traveling by air from now through at least the end of trial. Her trial
10 testimony, direct and cross-examination, shall therefore be conducted via
11 video conference. All costs associated with this shall be borne by Standard,
12 and Standard shall make all arrangements with the Courtroom Deputy and
13 Schmitt Reporting for the taking of this testimony, which is hereby
14 scheduled for 11:00 AM on what is anticipated to be the last day of trial,
15 July 16, 2016. Ms. Somner shall appear at Schmitt Reporting, Woodlark
16 Building, 813 SW Alder, Suite 610, Portland, OR 97205,
17 info@schmittreporting.com, (503) 245-4552, toll free: (855) 695-5554, no
18 later than 10:00 AM, i.e., one hour before the 11:00 AM scheduled start of
19 her testimony, on July 16, 2015.

20 3. The parties have identified an issue involving a privileged March 2009
21 letter (the "Letter") inadvertently produced to Standard among the records
22 subpoenaed from Garcia's former attorney, Steven Heller, Esq. The parties
23 have agreed that Standard shall destroy the Letter and all copies of it in the
24 possession of Standard, its attorney and his attorney service. No other
25 copies of the Letter are known to exist. Since additional privileged material
26 may be found among the records subpoenaed from Garcia's former
27 attorney, Steven Heller, Esq., the parties have reached agreement that any
28 such material, as soon as it is established that it may be privileged, shall not

1 further be reviewed, shall be disclosed to Garcia's counsel, who, if privilege
2 is claimed, will then direct Standard either to return to them or destroy all
3 copies of the privileged matter.

- 4 4. In order to obviate any need to take Court time for the appearance of the
5 investigator who filmed Kathleen Garcia on December 23, 26, 2014, and
6 January 9, 2015, the parties agree that the surveillance video of Garcia,
7 which has already been submitted to the Court on Standard's motion for
8 summary judgment and authenticated in the investigator's affidavit
9 (PACER Doc 22-7), is authentic. *No other objection of any kind to this*
10 *videotape, including relevance, is waived.*

11 **IT IS SO STIPULATED.**

12 Dated: June 25, 2015

13 /s/ Warren H. Nelson, Jr.
14 **WARREN H. NELSON, JR.**
15 A PROFESSIONAL CORPORATION
6161 El Cajon Boulevard, # 273
San Diego, CA 92115

16 Attorney for Defendant
17 **STANDARD INSURANCE COMPANY**

18 **IT IS SO STIPULATED.**

19 Dated: June 25, 2015

20 /s/ Dan Rainsbury
21 Dan Rainsbury

22 **DAVID ALLEN & ASSOCIATES**
5230 Folsom Boulevard
Sacramento, CA 95819

23 Attorneys for Plaintiff
24 **KATHLEEN GARCIA**

25 **IT IS SO ORDERED.**

26 Dated: June 26, 2015

27 

28 **WILLIAM B. SHUBB**
UNITED STATES DISTRICT JUDGE