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13 Attorneys for Defendants
Nouveau Vision, Inc., a Washington
14 corporation, and Timothy J. Sutich, an
individual

15 **UNITED STATES DISTRICT COURT**
16 **FOR THE EASTERN DISTRICT OF CALIFORNIA**

18 VISION SERVICE PLAN, a California
not-for-profit corporation,

19 Plaintiff,

20 v.

21 NOUVEAU VISION, INC., a
22 Washington corporation, TIMOTHY J.
SUTICH, an individual and DOES 1
23 through 50, inclusive,

24 Defendants.
25

CASE NO.: 2:16-CV-01049-TLN-KJN

**STIPULATION AND ORDER RE:
SCHEDULING DEPOSITIONS OF
DEFENDANTS NOUVEAU VISION,
INC. AND TIMOTHY J. SUTICH**

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27 IT IS HEREBY STIPULATED AND AGREED between Plaintiff Vision
28 Service Plan (“VSP” herein) and Defendants Nouveau Vision, Inc. (“Nouveau”

1 herein) and Timothy J. Sutich (“Sutich” herein) (collectively referred to as
2 “Defendants”), through their duly authorized counsel of record, that the following
3 Stipulation may be entered as an order of the Court with regard to the scheduling
4 of the depositions of Nouveau and Sutich in the above-entitled action.

5 WHEREAS, on June 12, 2017, Plaintiff VSP served Notices of Deposition
6 of Defendants Nouveau and Sutich and Request for Production of Documents
7 Thereat. The Deposition of Mr. Sutich was scheduled for July 13, 2017 at 10:00
8 a.m., and the Deposition of the Person Most Knowledgeable (“PMK” herein) of
9 Nouveau was scheduled to commence after the completion of the deposition of
10 Mr. Sutich.

11 WHEREAS, counsel for Defendants advised that he was unavailable for the
12 scheduled depositions and because of scheduling issues they would need to be
13 continued until mid-August. As a result, it was agreed that the depositions would
14 be continued to a mutually convenient date.

15 WHEREAS, on July 27, 2017, it was agreed that the depositions of
16 Defendants Sutich and Nouveau would take place on August 22, 2017. Counsel
17 for Defendants also advised that Mr. Sutich would be the sole PMK for Defendant
18 Nouveau. On August 2, 2017, Notices of Deposition of Sutich and Nouveau were
19 served scheduling the depositions for August 22, 2017, in Sacramento, California.
20 In addition, a Notice of Deposition of an uncooperative third party witness was
21 scheduled for August 23, 2017, in San Jose, California.

22 WHEREAS, on August 17, 2017, counsel for Defendants advised that due
23 to a mistake on their side, Mr. Sutich would not be able to appear on August 22,
24 2017. Counsel for Plaintiff then proposed a number of alternative dates.
25 Defendants have stated they are available to appear for deposition on September
26 13, 2017.

27 WHEREAS, Plaintiff does not desire to have this situation arise again on
28 September 13, 2017, where Defendants assert they are then unavailable.

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IT IS HEREBY STIPULATED AND AGREED AS FOLLOWS:

1. The deposition of Defendant Sutich will take place on Thursday, September 13, 2017 commencing at 10:00 a.m. at the offices of Atkinson Baker located at 641 Fulton Avenue, Suite 200, Sacramento, California 95825. The deposition of Nouveau will then take place immediately after the conclusion of the deposition of Sutich.

2. This Stipulation and Order shall be binding on the parties and treated as if Plaintiff VSP had filed a Motion to Compel the Depositions of Defendants Nouveau and Sutich, and an order has been entered in favor of Plaintiff VSP in accordance with **Federal Rules of Civil Procedure, Rules 26, 30 and 34.**

IT IS SO STIPULATED.

Dated: August 23, 2017

Respectfully submitted,
STERN & GOLDBERG

By: /s/ Alan N. Goldberg
ALAN N. GOLDBERG
PETER TRAN
Attorneys for Plaintiff
Vision Service Plan, a California not-for-profit corporation

Dated: August 23, 2017

BENBROOK LAW GROUP, PC

By: /s/ Stephen M. Duvernay
BRADLEY A. BENBROOK
STEPHEN M. DUVERNAY
Attorneys for Defendants
Nouveau Vision, Inc., a Washington corporation, and Timothy J. Sutich, an individual

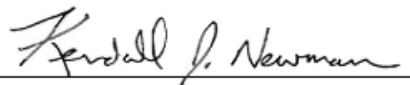
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ORDER

The Court accepts this Stipulation of the parties, and enters the above Stipulation as being the ruling of the Court as if Plaintiff VSP had filed a motion to compel the depositions of Defendants Nouveau and Sutich and the motion had been granted.

IT IS SO ORDERED.

Dated: August 30, 2017


KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE