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8 For plaintiff Patricia Fox, O.D.

9 **UNITED STATES DISTRICT COURT**
 10 **EASTERN DISTRICT OF CALIFORNIA**
 11 **SACRAMENTO DIVISION**

12 **PATRICIA FOX, O.D.,**

13 Plaintiffs,

14 vs.

15 **VISION SERVICE PLAN; DOES 1-10,**
 16 **inclusive,**

17 Defendant.

Case No. 2:16-cv-02456-JAM-DB

**STIPULATION AND ORDER
 CONTINUING SCHEDULING ORDER
 DATES**

18 Plaintiff, Patricia Fox, O.D., and Defendant, Vision Service Plan (“VSP”), by and through
 19 their respective counsel of record, hereby stipulate, agree, and request as follows:

20 **RECITALS**

21 **WHEREAS**, this Court issued a scheduling order on December 14, 2016; and

22 **WHEREAS**, the Court set the following schedule:

<u>Deadline/Hearing</u>	<u>Due/Set</u>
Designation of Expert Witnesses	7/21/2017
Discovery Deadline	09/29/2017
Dispositive Motion Deadline	11/07/2017
Final Pretrial Conference	01/26/2018 at 11:00 AM
Jury Trial	3/12/2018 at 09:00 AM

1 **WHEREAS**, on February 24, 2017, this Court granted Plaintiff’s Motion for Preliminary
2 Injunction and issued the Preliminary Injunction; and

3 **WHEREAS**, Vision Service Plan appealed the Court’s order to the 9th Circuit Court of
4 Appeals; and

5 **WHEREAS**, the appeal challenges, among other things, the Court’s legal ruling on
6 whether the Federal Arbitration Act preempts 28 CRC 1300.71.38, and the Court’s legal rulings
7 with respect to both procedural and substantive unconscionability; and

8 **WHEREAS**, the appellate briefing is now complete, but the 9th Circuit has indicated that
9 it will set oral arguments in October 2017; and

10 **WHEREAS**, the ruling of the 9th Circuit is potentially determinative of one or more core
11 legal issues in this case and/or could significantly affect the nature and scope of relevant
12 evidence; and

13 **WHEREAS**, both plaintiff and defendant believe it would be in the best interest of the
14 parties and the Court to allow the appeals process to be completed before proceeding to litigating
15 and bringing the matter to trial and before investing substantial amounts of time and money into
16 discovery, expert witnesses, depositions, and dispositive motions; and

17 **WHEREAS**, counsel for the parties have met and conferred and both believe it would be
18 appropriate to continue the pending Scheduling Order dates for at least six months to allow time
19 to obtain the ruling of the 9th Circuit Court of Appeals;

20 **NOW, THEREFORE**, the parties, through counsel, stipulate and request that the Court
21 continue the dates set in the Dec. 14, 2016, scheduling order.

22 **IT IS SO STIPULATED.**

23 Dated: June 21, 2017

MANATT, PHELPS & PHILLIPS LLP

24 /s/ Andrew H. Struve
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26 _____
Andrew H. Struve
27 Attorneys for Defendant Vision Service Plan
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1 Dated: June 21, 2017

LAW OFFICES OF CRAIG S STEINBERG, O.D., PC

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3 /s/ Craig S Steinberg, O.D.

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5 Craig S Steinberg, O.D.
6 Attorney for Plaintiff Patricia Fox, O.D.

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8 **ORDER**

9 The Court, having reviewed the stipulation of the parties, and finding good cause to
10 continue the dates as requested, hereby orders as follows:

11 The new dates shall be as follows:

<u>Deadline/Hearing</u>	<u>New Due/Set</u>
Designation of Expert Witnesses	<u>2/2/2018 and 2/9/2018</u>
Discovery Deadline	<u>4/6/2018</u>
Dispositive Motion filing Deadline	<u>5/8/2018</u>
Dispositive motion hearing	<u>6/5/2018</u>
Joint pretrial statement due	<u>7/20/2018</u>
Final Pretrial Conference	<u>7/27/2018 at 11:00 a.m.</u>
Jury Trial	<u>9/10/2018 at 9:00 a.m.</u>

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20 Dated: 6/23/2017

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22 /s/ John A. Mendez _____
23 Hon. John Mendez
24 United States District Court Judge