

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

STIPULATION AND [PROPOSED] ORDER

WHEREAS, on January 9, 2008, Plaintiff Laura Fujisawa, *et al.* (“Plaintiffs”) filed an Amended Complaint raising claims of negligence against Defendants Compass Vision, Inc. (“COMPASS”) and National Medical Services, Inc. d/b/a NMS Labs (“NMS”);

WHEREAS, on April 14, 2009, COMPASS filed a Third Party Impleader Complaint against Third Party Defendant MAXIMUS, Inc. (“MAXIMUS”) and on August 25, 2009, COMPASS filed an Amended Third Party Impleader Complaint against MAXIMUS;

WHEREAS, on December 28, 2009, MAXIMUS filed an Answer and Counterclaim to Compass’s First Amended Third Party Impleader Complaint;

WHEREAS during depositions on May 25, 2010 and May 27, 2010, witnesses affiliated with two State of California medical licensing boards testified to facts describing the applicable State disciplinary, enforcement and probationary processes through which Plaintiffs were involved in the Program that is the subject of this litigation;

WHEREAS MAXIMUS now desires, based on such newly acquired admissible evidence, to amend its Answer to Compass’s First Amended Third Party Impleader Complaint to assert additional affirmative defenses of: absolute privilege pursuant to Cal. Civ. Code § 47 and applicable case law; privilege and immunity pursuant to authorities including but not limited to Cal. Civ. Code § 47 and applicable case law; waiver; and privilege and confidentiality pursuant to Cal. Bus. & Prof. Code §§ 156.1, 2770.12, and 4372, and Cal. Evid. Code § 1041; and

WHEREAS, Compass has so stipulated and plaintiffs have been notified and not objected, and no party shall be prejudiced by the proposed amendments by MAXIMUS to its Answer to Compass’s First Amended Third Party Impleader Complaint;

THE PARTIES, THROUGH THEIR RESPECTIVE ATTORNEYS OF RECORD, HEREBY STIPULATE and request the Court for leave to permit MAXIMUS to file its First Amended Answer and Counterclaim to Compass Vision, Inc.’s First Amended Third Party Impleader Complaint. A true and correct copy of the proposed First Amended Answer and Counterclaim to Compass Vision, Inc.’s First Amended Third Party Impleader

1 Complaint is attached hereto as Exhibit "A." (As the Counterclaim remains the same as
2 originally pled, Compass' existing Answer on file thereto shall continue to be operative.)

3 IT IS SO STIPULATED.

4
5 DATED: June 11, 2010

GREENBERG TRAURIG, LLP

6
7 By: /s/ Jeremy A. Meier
8 Jeremy A. Meier
9 Thomas A. Woods
Attorneys for Third-Party
Defendant/Counterclaimant
MAXIMUS, Inc.

10 Dated: June 11, 2010

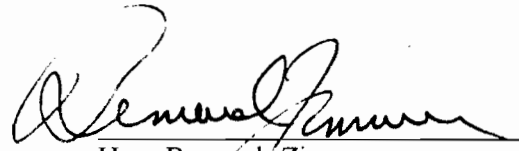
SWIDER MEDEIROS HAVER, LLP

11
12 By: /s/ Robert A. Swider
13 Robert A. Swider
14 Attorney for Defendant, Third-
Party Plaintiff and Counterdefendant
COMPASS VISION, INC.

15
16
17 **[PROPOSED] ORDER**

18 PURSUANT TO STIPULATION, LEAVE TO FILE MAXIMUS' AMENDED THIRD
19 PARTY ANSWER IS SO ORDERED.

20
21 Dated: 14 June 2010

22 
23 Hon. Bernard Zimmerman
24 United States District Judge

25
26
27
28