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 Alta Bates Summit Medical Center
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8 UNITED STATES DISTRICT COURT
 9 NORTHERN DISTRICT OF CALIFORNIA

11 ALTA BATES SUMMIT MEDICAL CENTER,))
 12) Plaintiff,)
 13 v.)
 14 UNITED OF OMAHA LIFE INSURANCE)
 COMPANY, et al.,)
 15) Defendants.)

No. C 07-4224 JSW

STIPULATION TO FILE FOURTH AMENDED COMPLAINT

Hon. Jeffrey S. White

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 17 Pursuant to Federal Rule of Civil Procedure, Rule 15 (a)(2), plaintiff, Alta Bates Summit
 18 Medical Center ("Alta Bates") and defendants, United of Omaha Life Insurance Company and
 19 Mutual of Omaha Life Insurance through their respective counsel (collectively "Parties"), hereby
 20 stipulate as follows:

21 On April 28, 2009, United States District Judge, Jeffrey S. White, issued an Order Granting
 22 Defendants' Motion to Dismiss and to Strike ("Order"). Pursuant to the Order, Judge White
 23 dismissed Alta Bates' third and fourth claims for relief under the Third Amended Complaint and
 24 granted Defendants' motion to strike paragraph 63(a) from the Third Amended Complaint. Plaintiffs
 25 have noted that the Third Amended Complaint contains some errors that Plaintiff wishes to correct
 26 before trial. Defendants having reviewed the corrected allegations have agreed that they will not
 27 oppose Plaintiff's request for leave to file a Fourth Amended Complaint containing the corrections so
 28 long as Plaintiff removes paragraph 63(a) and the third and fourth causes of action from the filed

1 document. Plaintiff has agreed, for the sake of judicial efficiency and to ensure that complaint
2 reflects the true facts upon which Plaintiff's claims are based. The Fourth Amended Complaint is
3 attached hereto for filing.

4 This Stipulation is entered into for the limited purpose of filing an amended complaint
5 pursuant to Rule 15(a)(2) and in no way waives or alters Alta Bates' objections to the order,
6 appellate rights, and/or any rights to reconsideration of the Order.

7 This stipulation does not constitute an agreement by Defendants that any issue raised by the
8 Fourth Amended Complaint may be tried to a jury. This Stipulation does not revive any rights to a
9 jury trial and in no way waives or alters any objections Defendants may raise regarding Plaintiff's
10 demand for a jury trial. Once the Court has ruled on Defendants' motion for summary judgment and
11 to the extent any triable claims for relief remain, Defendants intend to file a motion under Federal
12 Rule of Civil Procedure 39 seeking an order that the right to a jury trial has been waived as to all
13 issues implicated by the Fourth Amended Complaint.

14 The filing of the Fourth Amended Complaint shall not result in any change to the current
15 case management deadlines. Service thereof shall be deemed complete upon entry of the order upon
16 this stipulation, and Defendants shall file an answer thereto within 10 court days thereafter.

17 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

18
19 DATED: June 17, 2009

McDonough Holland & Allen PC

20 By: 

21 Marcia L. Augsburger
22 Attorneys for Plaintiff
Alta Bates Summit Medical Center

23 DATED: June 17, 2009

Barger & Wolen LLP

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25 By: //ss// Travis R. Wall

26 Travis R. Wall
27 Attorneys for Defendants
United of Omaha Life Insurance Company and
28 Mutual of Omaha Insurance Company

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PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: 6/19/2009



Jeffrey S. White

United States District Court Judge