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through a private mediator by October 6, 2008. On or around June 4, 2008, the parties agreed to mediate this case on September 23, 2008 using mediator Mark Humbert.

- 2. On June 16, 2008, this Court set the trial date for this matter for December 12, 2008 at the Case Management Conference.
- 3. On or around August 28, 2008, Plaintiff's counsel learned of a potential conflict of interest with Mr. Humbert. Plaintiff's counsel informed Defendants' counsel of the potential conflict, and the parties agreed to use a different mediator, Debra Mellinkoff. Because of scheduling difficulties, the only date available to mediate this case is November 19, 2008, which occurs after the October 6, 2008 mediation deadline. As it currently stands, the mediation has been scheduled after the deadline to file cross-motions for judgment under Rule 52 of the Federal Rules of Civil Procedure under the briefing schedule required by Local Rules 7-2, 7-3 and 7-4. The parties wish to mediate this case before the filing of cross-motions.
- 4. In light of the rescheduled November 19, 2008 mediation, IT IS HEREBY STIPULATED by and between the parties hereto through their respective attorneys of record that that the deadline for the parties to complete mediation is continued from October 6, 2008 to November 19, 2008.

IT IS FURTHER STIPULATED that the trial date for this case be continued from December 12, 2008 to January 9, 2009 at 10:00 a.m. before the Honorable Charles R. Breyer. Plaintiff and The Guardian shall file and serve cross-motions for judgment under Rule 52 of the Federal Rules of Civil Procedure by November 26, 2008, file and serve oppositions to the cross-motions by December 12, 2008, and file and serve reply briefs to the oppositions by December 19, 2008.

DATED: September 9, 2008

PILLSBURY & LEVINSON, LLP REBECCA GREY BRIAN H. KIM

BRIAN H. KIM

Attorneys for Plaintiff April Fontana

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DATED: September 9, 2008

REED SMITH LLP LINDA B. OLIVER JESSICA M. PERRY

By: 💆

LINDA B. OLIVER

Attorneys for Defendants The Guardian Life Insurance Company of America and The Checkpoint Software Technologies Inc. Disability Plan

<u> [PROPOSED]</u> ORDER

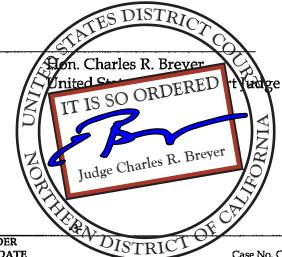
Upon consideration of the foregoing request, and with good cause appearing therefore,

IT IS HEREBY ORDERED that the deadline for the parties to complete mediation is continued from October 6, 2008 to November 19, 2008.

IT IS FURTHER ORDERED that the trial date for this case be continued from December 12, 2008 to January 9, 2009 at 10:00 a.m. before the Honorable Charles R. Breyer. Plaintiff and The Guardian shall file and serve cross-motions for judgment under Rule 52 of the Federal Rules of Civil Procedure by November 26, 2008, file and serve oppositions to the cross-motions by December 12, 2008, and file and serve reply briefs to the oppositions by December 19, 2008.

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: September <u>17</u>, 2008



JOINT STIPULATION AND [PROPOSED] ORDER CONTINUING ADR DEADLINE AND TRIAL DATE

Case No. CV-08-1231-CRB