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14 APRIL FONTANA

10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA

13 APRIL FONTANA,) Case No. CV-08-1231-CRB
14)
15 Plaintiff,)
16 v.) **JOINT STIPULATION AND**
17) **~~[PROPOSED]~~ ORDER**
18 THE GUARDIAN LIFE INSURANCE) **CONTINUING ADR DEADLINE**
19 COMPANY OF AMERICA; THE CHECK) **AND TRIAL DATE**
20 POINT SOFTWARE TECHNOLOGIES,)
21 INC. DISABILITY PLAN; et al.,)
22 Defendants.)

21 **STIPULATION**

22 Plaintiff April Fontana ("Plaintiff"), Defendant The Guardian Life Insurance
23 Company of America ("Guardian") and Defendant The Checkpoint Software
24 Technologies Inc. Disability Plan (the "Plan"), by and through their respective counsel
25 of record, hereby stipulate and agree as follows:

26
27 1. On May 20, 2008, this Court signed the Stipulation and [Proposed]
28 Order Selecting ADR Process, granting the parties' stipulation to mediate this matter

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

3 2. On June 16, 2008, this Court set the trial date for this matter for
4 December 12, 2008 at the Case Management Conference.

5 3. On or around August 28, 2008, Plaintiff's counsel learned of a potential
6 conflict of interest with Mr. Humbert. Plaintiff's counsel informed Defendants'
7 counsel of the potential conflict, and the parties agreed to use a different mediator,
8 Debra Mellinkoff. Because of scheduling difficulties, the only date available to
9 mediate this case is November 19, 2008, which occurs after the October 6, 2008
10 mediation deadline. As it currently stands, the mediation has been scheduled after
11 the deadline to file cross-motions for judgment under Rule 52 of the Federal Rules of
12 Civil Procedure under the briefing schedule required by Local Rules 7-2, 7-3 and 7-4.
13 The parties wish to mediate this case before the filing of cross-motions.

14 4. In light of the rescheduled November 19, 2008 mediation, IT IS HEREBY
15 STIPULATED by and between the parties hereto through their respective attorneys of
16 record that that the deadline for the parties to complete mediation is continued from
17 October 6, 2008 to November 19, 2008.

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

24 DATED: September 9, 2008

PILLSBURY & LEVINSON, LLP
REBECCA GREY
BRIAN H. KIM

26
27 By: 


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

~~PROPOSED~~ 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 17, 2008

