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6 Optimum Health Institute

7 **UNITED STATES DISTRICT COURT**  
8 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**  
9

10 CHERYL CASON,

11 Plaintiff,

12 vs.

13  
14 FEDERATED LIFE INSURANCE  
COMPANY; a Minnesota Corporation  
15 registered to do business in California; and  
16 DOES 1 to 100,

17 Defendants.  
18

Case No.: C 10-cv-00792 EMC

**STIPULATION AND ORDER  
THEREON FOR BRIEFING  
SCHEDULE AND EXPEDITED  
SCHEDULING OF OSC/CIVIL  
CONTEMPT HEARING REGARDING  
OPTIMUM HEALTH INSTITUTE'S  
REFUSAL TO PRODUCE  
DOCUMENTS IN RESPONSE TO  
COURT ORDER**

19 Third Party Optimum Health Institute ("OHI") and Defendant Federated Life  
20 Insurance Company ("Federated"), through their undersigned counsel, hereby stipulate and  
21 agree to the following, subject to approval by the Court:

22 WHEREAS, the Court issued an Order [Docket No. 73], dated April 26, 2011,  
23 directing OHI to lodge with the Court, under seal, for *in camera* review (in response to  
24 Federated's revised version of its prior March 1, 2011 subpoena), no later than May 11,  
25 2011, documents responsive to the following requests:

- 26 1. Attendance records or documents reflecting dates of Cason's attendance  
27 or stay at OHI within the last 5 years;

- 1           2. Documents reflecting Cason's participation in scheduled classes at OHI
- 2           during any of her stays within the last 5 years;
- 3           3. Any documents reflecting the class schedules for guests of Missionaries
- 4           within the last 5 years;
- 5           4. Any documents describing the activities available on regular basis at
- 6           OHI for guest or Missionaries within the last 5 years; and
- 7           5. Any documents Cason filled out at OHI within the last 5 years.

8           WHEREAS, OHI lodged documents with the Court pursuant to the Order, including  
9 documents over which it did not claim a privilege because such documents are publicly  
10 available, and documents which OHI did claim to be confidential and/or privileged, for  
11 which OHI provided a privilege log identifying which privileges or protections were being  
12 asserted;

13           WHEREAS, the Court thereafter issued an Order [Docket No. 83] on May 20, 2011,  
14 directing OHI to produce to Federated, within five Court days of the Order, each of the  
15 documents it had submitted for *in camera* review;

16           WHEREAS, OHI has produced to Federated, within the five Court days ordered by  
17 the Court, the documents it had produced for *in camera* review and over which it did not  
18 claim a privilege, as well as the privilege log identifying the documents it had produced for  
19 *in camera* review but which it claimed to be confidential and/or privileged, but OHI has  
20 withheld from its production to Federated the documents identified in the privilege log as  
21 confidential and/or privileged ("Subject Documents"), despite the Court's May 20, 2011  
22 Order;

23           WHEREAS, both Federated and OHI seek to expedite the process by which the Court  
24 can hold an OSC hearing and contempt hearing in which it can find OHI in civil contempt  
25 for its refusal to comply with the Court's order to produce the Subject Documents to  
26 Federated which OHI claims to be confidential;

1 WHEREAS, both Federated and OHI seek to have the Court issue its civil contempt  
2 order as early as possible so that OHI may file an expedited appeal and/or writ at the earliest  
3 opportunity, while also requesting a stay of such contempt order pending the appeal;

4 1. OHI and Federated stipulate and agree that the Court may set an OSC and  
5 contempt hearing on a shortened time, preferably during the June 6 to June 8, 2011 time  
6 frame, to find OHI in civil contempt for its refusal to produce the Subject Documents and  
7 counsel for OHI and Federated may appear telephonically at the hearing.

8 2. OHI and Federated may contemporaneously file briefs relating to the  
9 OSC/civil contempt hearing by Thursday June 2, 2011, with no responsive briefs to be filed.

10 DATED: May 27, 2011

**HOLSENBACK APC**

/s/J. DANIEL HOLSENBACK

J. Daniel Holsenback, Esq.  
Peter Q. Schluederberg, Esq. for  
Interested Third Party,  
OPTIMUM HEALTH INSTITUTE

**THE COSTA LAW FIRM**

/S/ DANIEL P. COSTA

Daniel P. Costa  
Attorneys for Defendant  
FEDERATED LIFE INSURANCE COMPANY

**ORDER ON STIPULATION**

22 GOOD CAUSE APPEARING, and pursuant to the above stipulation, IT IS HEREBY  
23 ORDERED as follows:

24 1. The requested OSC/civil contempt hearing to determine whether Optimum  
25 Health Institute should be found in civil contempt for its refusal to produce documents  
26 pursuant to Court order is set for June 8, 2011 at 10:30 am. Counsel for OHI and  
27 Federated may appear telephonically at the hearing. Court will call both parties between  
28 10:30 a.m. and 12:00 p.m.

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2. Both OHI and Federated may file briefs relating to the OSC/civil contempt hearing by Thursday June 2, 2011, with no responsive briefs to be filed.

IT IS SO ORDERED.

Dated: May 27, 2011

