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 11 **BLUE SHIELD OF CALIFORNIA**

12 **UNITED STATES DISTRICT COURT**
 13 **NORTHERN DISTRICT OF CALIFORNIA**

14
 15 **DARLERY FRANCO *et al.*,**
 16 *Plaintiffs*
 v.
 17 **CONNECTICUT GENERAL LIFE INS. CO.**
 18 *et al.*
 19 *Defendants*

Misc. Case No. CV 10 80157 JSW (JCS)
 Currently Pending in U.S. District Court,
 D.N.J. (No. 07-cv-6039)

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 21 **IN RE AETNA UCR LITIGATION**

Misc. Case No. CV 10 80158 JSW (JCS)
 Currently Pending in U.S. District Court,
 D.N.J. (Master File 07-cv-3541)

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 24 **IN RE WELLPOINT, INC. OUT-OF-**
NETWORK "UCR" RATES LITIG.

Misc. Case No. CV 10 80159 JSW (JCS)
 Currently Pending in U.S. District Court,
 C.D. Cal. (MDL No. 09-2074-PSG (CTx))

**STIPULATION AND [PROPOSED]
 ORDER OF DISMISSAL WITHOUT
 PREJUDICE**

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STIPULATION

WHEREAS, plaintiffs in each of the following actions (“Plaintiffs”) caused an identical subpoena *duces tecum* to be served on non-party Blue Shield of California (“BSC”) in the Northern District of California:

- 1) *Darlery Franco et al. v. Connecticut General Life Ins. Co. et al.*, pending in the United States District Court for the District of New Jersey (No. 07-cv-6039);
- 2) *In re Aetna UCR Litigation*, pending in the United States District Court for the District of New Jersey (Master File 07-cv-3541); and
- 3) *In re Wellpoint, Inc. Out-Of-Network “UCR” Rates Litigation*, pending in the United States District Court for the Central District of California (MDL No. 09-2074-PSG (CTx));

WHEREAS, on June 29, 2010, BSC filed three identical motions to quash the subpoenas in the above-captioned actions in the Northern District of California; and

WHEREAS, Plaintiffs have agreed to withdraw those three subpoenas in their entirety,

IT IS HEREBY STIPULATED AND AGREED, pursuant to Federal Rules of Civil Procedure 41(a)(1)(A)(ii) and 41(c), that the three above-captioned miscellaneous actions be

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1 dismissed without prejudice. It is further stipulated that each party shall bear its own costs and
2 fees incurred to date.

3 Respectfully submitted,

4 MAYER BROWN LLP

5 Dated: August 10, 2010

/s/ Richard M. Assmus
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Ph: (312) 782-0600

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8 *Attorneys for Non-Party Blue Shield of California*

9
10 BONNETT, FAIRBOURN, FRIEDMAN & BALINT, PC

11 Dated: August 10, 2010

/s/ Kathryn Honecker
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15 *Attorneys for Plaintiffs in the underlying actions*

16 *Filer's Attestation: Pursuant to Gen. Order No. 45, Section X(B), Jason A. Wrubleski hereby*
17 *attests that the signatories' concurrence in the filing of this document has been obtained.*

18 **[PROPOSED] ORDER**

19 **PURSUANT TO STIPULATION, IT IS SO ORDERED.** The three above-captioned
20 miscellaneous actions are hereby **DISMISSED** without prejudice, and the status conference
21 currently set for August 13, 2010 is hereby **VACATED**. Each party shall bear its own costs and
22 fees incurred to date.

23 **IT IS SO ORDERED.**

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25 Dated: 08/11/10

26 Hon. J. Spero
United States Magistrate Judge.
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