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 14 UNITED STATES DISTRICT COURT
 15 NORTHERN DISTRICT OF CALIFORNIA

16
 17 DANA M. WELLE, D.O.,
 18 Plaintiff,
 19 v.
 20 PROVIDENT LIFE AND
 ACCIDENT INSURANCE
 21 COMPANY; DOES 1 to 10,
 inclusive,
 22 Defendants.

Case No. CV12-03016 EMC

**JOINT STIPULATION TO
 CONTINUE NON-EXPERT AND
 EXPERT DISCOVERY CUT-OFF
 DATES; (PROPOSED) ORDER**

23
 24 TO THE HONORABLE COURT AND TO ALL PARTIES HEREIN:

25 Plaintiff Dana Welle (“Plaintiff”) and Defendant Provident Life and Accident
 26 Insurance Company (“Provident”), hereby stipulate, by and through their respective
 27 counsel, to continue the non-expert and expert discovery cut-off dates, for good
 28

1 cause shown, as explained in detail below:

2 1. The present action involves a complex non-ERISA disability insurance
3 benefit dispute involving multiple factual and expert witnesses. Plaintiff asserts
4 claims against Provident for breach of contract and breach of the implied covenant
5 of good faith and fair dealing. On June 12, 2012, the Court issued an order (Docket
6 #26) with the following pretrial dates:

7 Expert disclosures/reports	October 3, 2013
8 Discovery cut-off	October 3, 2013
9 Further Status Conference	October 10, 2013 at 10:30 a.m.
10 Rebuttal expert disclosures/reports	October 24, 2013
11 Dispositive Motions (last day to be heard)	December 19, 2013 at 1:30 p.m.
12 Expert discovery cut-off	November 14, 2013
13 Pre-Trial Conference	March 11, 2014
14 Trial (8 court days estimate)	March 24, 2014

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16 2. Since June 2012, the parties have diligently and cooperatively engaged
17 in extensive discovery, including 17 depositions, multiple sets of interrogatories (1
18 set by Plaintiff and 2 sets by Defendant) and requests for production of documents
19 (5 sets by Plaintiff and 3 sets by Defendant), as well as subpoenas to numerous
20 third parties. The initial sets of discovery were served by the parties in August and
21 September 2012, with the parties first attempting to obtain dates for the depositions
22 of Provident's witnesses in October 2012, which were noticed in December 2012
23 and proceeded to take place in January 2013 and April 2013.

24 3. The meet and confer process has also been extensive and, for the most
25 part, successful. However, there exist remaining issues on which the parties are
26 meeting and conferring, such as Provident's Special Investigations Unit file which
27 was the subject of a discovery motion ruled upon by the Court on July 31, 2013.
28 The Court granted and denied Plaintiff's motion in part. After Provident produced

1 its SIU file documents on August 30, 2013, Plaintiff initiated a meet and confer
2 over the documents in the SIU file that Provident maintains are privileged. There
3 are additional issues Plaintiff is raising in meet and confer sessions with Provident
4 after Plaintiff's counsel's receipt of other documents Provident produced in
5 response to the Court's July 31, 2013 discovery order. Plaintiff has filed motions
6 to compel to resolve these issues which are pending before Magistrate Westmore.
7 Provident will also be filing a motion to compel with respect to Plaintiff's financial
8 documents. Plaintiff anticipates on filing further motions to compel based on
9 additional information she claims she recently obtained, including but not limited to
10 a motion to compel the SIU policies and procedures file, an addendum to the
11 motion to compel the complete SIU file, and a motion to compel the depositions of
12 3 additional witnesses from Provident (Kenneth Kesler, Joanna Bialy, and Laura
13 Lefebvre).

14 4. Both parties require and respectfully request additional time to
15 complete discovery that has been properly noticed before the discovery cut-off,
16 including the taking of depositions of witnesses Laura Kilmartin (located in
17 Portland, Maine), Joanna Bialy (located in Worcester, Massachusetts), Laura
18 Lefebvre (located in Worcester, Massachusetts), and Ken Kensler (located out of
19 state). Plaintiff maintains she discovered the need to take the depositions of Ms.
20 Bialy in early September 2013 after receiving the court-ordered documents.
21 Plaintiff has also requested the deposition of Ms. Kilmartin in early August 2013,
22 but this deposition was not able to occur by the October 3, 2013 non-expert
23 discovery cut-off due to Ms. Kilmartin and Provident's counsel, Daniel W.
24 Maguire's unavailability. The earliest Ms. Kilmartin's deposition can be taken is
25 November 1, 2013. Plaintiff has also noticed the depositions of Laura Lefebvre and
26 Ken Kensler after taking the deposition of SIU investigator Natayla Vayn.
27 Provident objects to Plaintiff's taking of depositions in excess of the 10 deponent
28 limit, which may be an issue Plaintiff will be raising with the Court. As stated

1 above, if Provident maintains its objections to these depositions, Plaintiff will seek
2 to compel them.

3 5. In addition, Provident will need additional time to complete discovery
4 properly noticed before the discovery cut-off, which is limited to completing the
5 process of obtaining the subpoenaed records already issued, deposing the doctors
6 newly disclosed in plaintiff's supplemental disclosures, and any discovery motions
7 only as to issues regarding subpoenas previously issued or plaintiff's discovery
8 responses previously served.

9 6. The parties therefore request a continuance of the discovery cut-off
10 date to January 7, 2014 in order to complete only the discovery that was properly
11 noticed before the October 3, 2013 cut-off and/or resolve the discovery issues
12 regarding that discovery.

13 7. The parties further request that the expert discovery cut-off date of
14 November 14, 2013, also be continued to February 1, 2014 to allow additional
15 flexibility in scheduling expert depositions.

16 8. The parties respectfully submit that good cause for the requested
17 continuance exists because counsel for the parties have been coordinating the
18 scheduling of the depositions and have been actively engaging in written discovery,
19 including meet and confer efforts. This is the parties' first request for a continuance
20 of the case management dates. Further, the parties are not requesting a continuance
21 of all case management dates.

22 9. For the above reasons, **IT IS HEREBY STIPULATED AND**
23 **AGREED**, subject to the Court's approval, that the case management dates be
24 continued as follows:

25 Discovery cut-off¹ From 10/3/13 to 1/7/14

26 Expert discovery cut-off From 11/14/13 to 2/1/14

27
28 ¹ Only as to the discovery outlined above.

1 Respectfully submitted,

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3 DATED: October 9, 2013

DONAHUE & HORROW, LLP
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Nichole D. Podgurski

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6 By: s/Nichole D. Podgurski
as authorized on 10/9/13

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8 Michael B. Horrow
Attorneys for Plaintiff
Dana M. Welle, D.O.

9 DATED: October 9, 2013

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12 By: s/Keiko J. Kojima

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14 Keiko J. Kojima
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ORDER

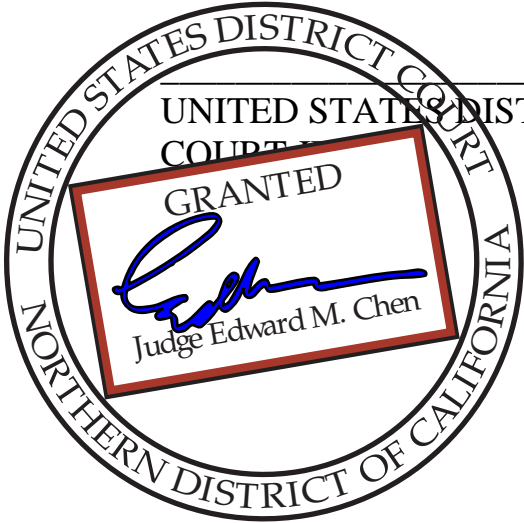
For good cause shown IT IS HEREBY ORDERED:

The Case Management dates in the above-entitled action have been continued as follows:

Discovery cut-off² From 10/3/13 to 1/7/14

Expert discovery cut-off From 11/14/13 to 2/1/14

DATED: 10/10/13



² Only as to the discovery outlined above.