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 Attorneys for Defendant,
 6 UNITED HEALTHCARE INC.

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 8 UNITED STATES DISTRICT COURT
 9 NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

11 DAVID BAIN, DAYNA BAIN and ALAINA
 BAIN, individuals, ,
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 Plaintiffs,
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 vs.
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 OXFORD HEALTH INSURANCE, INC. and
 15 UNITED BEHAVIORAL HEALTH, in their
 capacities as insurers, administrators, and
 16 fiduciaries of the Sagent Advisors Inc. Group
 Health Plan, an ERISA-regulated welfare plan,
 17
 Defendants.
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CASE NO. 3:15-cv-03305-EMC

**STIPULATION AND PROPOSED ORDER
 TO WITHDRAW DEFENDANT’S
 OPPOSITION (DKT. 71) TO
 PLAINTIFF’S MOTION TO STAY (DKT.
 68) AND TO STAY THE LITIGATION**

Trial Date: None Set

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 20 Plaintiffs David Bain, Dayna Bain, and Alaina Bain (collectively, “Plaintiffs”) and
 21 Defendants Oxford Health Insurance, Inc. and United Behavioral Health (collectively,
 22 “Defendants”) do hereby stipulate and agree as follows:

23 **RECITALS**

24 WHEREAS, on April 4, 2017, Plaintiffs filed a Motion to Stay Action and Alternative
 25 Motion to Continue Summary Judgment Schedule (“the Motion for Stay”), which is presently
 26 scheduled to be heard on April 13, 2017 (see Dkt. 68);

27 WHEREAS, Plaintiffs’ Motion requests, inter alia, that this Court stay the above-captioned

1 litigation until November 16, 2017, in light of the pending matters of Wit v. United Behavioral
2 Health, N.D. Cal. Case No. 14-cv-02346-JCS, and Alexander v. United Behavioral Health, N.D.
3 Cal. Case No. 14-cv-05337-JCS (collectively, “Wit”);

4 WHEREAS, Defendants filed an opposition on April 7, 2017 (see Dkt. 71), and Plaintiffs
5 filed a reply on April 10, 2017 (see Dkt. 73);

6 WHEREAS, Defendants contend that if a judgment is entered with respect to the class
7 currently certified in Wit, such judgment will preclude all of the claims currently asserted by
8 Plaintiffs in the above-captioned action in their entirety, subject to any opt-out rights;

9 WHEREAS, Plaintiffs dispute Defendants’ contention for multiple reasons, including, but
10 not limited to, the fact that the instant lawsuit includes multiple claims not raised or contemplated
11 to be adjudicated in Wit, and that will not be resolved by Wit, including but not limited to claims
12 concerning the adequacy and propriety of Defendant’s termination of benefits Plaintiff Alaina
13 Bain’s residential treatment under ERISA and the ERISA claims regulation, claims for monetary
14 benefits, claims for penalties under ERISA § 502(c), and otherwise (whereas, by contrast, Wit is
15 expressly seeking only re-adjudication – not monetary benefits – of claims denied based on an
16 allegedly improper Level of Care Guideline); and neither a judgment nor a settlement in a class
17 action such as Wit resolves or produce a waiver or release of claims outside the scope of those
18 actually litigated. See National Super Spuds v. N.Y Mercantile Exchange, 660 F.2d 9, 18 (2d Cir.
19 1981); and

20 WHEREAS, despite their differing positions on these issues, all parties believe that the
21 requested stay is appropriate;

22 **STIPULATION**

23 THEREFORE, in consideration of the foregoing recitals, Defendants hereby withdraw
24 their opposition to Plaintiffs’ Motion to Stay, and Plaintiffs and Defendants hereby stipulate and
25 agree that the above-captioned litigation should be stayed until November 16, 2017, as requested
26 in Plaintiffs’ Motion for Stay.

27 The undersigned, on behalf of their respective clients, do so stipulate.

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Respectfully submitted.

DATED: April 11, 2017

LEWIS BRISBOIS BISGAARD & SMITH LLP

By: /s/ Greg L. Johnson
Greg L. Johnson
Timothy J. Nally
Attorneys for Defendants OXFORD HEALTH
INSURANCE, INC. AND UNITED
BEHAVIORAL HEALTH

DATED: April 11, 2017

PHILIPS, ERLEWINE, GIVEN & CARLIN LLP
CREITZ & SEREBIN LLP

By: /s/ Joseph Creitz
Joseph Creitz
Co-Counsel for Plaintiffs DAVID BAIN, DAYNA
BAIN and ALAINA BAIN

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ATTESTATION

Pursuant to Civil Local Rule 5-1(i)(3), I attest that concurrence in the filing of this document has been obtained from each of the other signatories.

Dated: April 11, 2017

/s/ Greg L. Johnson
Greg L. Johnson
Attorneys for Defendants

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ORDER UPON STIPULATION

Pursuant to the stipulation of the parties and good cause appearing, the Court hereby stays the above-captioned litigation until November 16, 2017, as requested in the Motion to Stay (Dkt. 68).

It is so ORDERED. The 4/13/17 hearing is vacated. Further CMC is reset from 5/25/17 to 11/30/17 at 10:30 a.m. An updated joint CMC statement shall be filed by 11/22/17.

DATED: 4/13/2017

