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 dba CDC INSURANCE SERVICES

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

12 MIDWEST TRANSPORT, INC., a Delaware
 Corporation,

13 Plaintiff,

14 vs.

15 FCE BENEFIT ADMINISTRATORS, INC., a
 16 California Corporation,

17 and

18 CALIFIA DEVELOPMENT CORP., d/b/a CDC
 INSURANCE SERVICES, a California Corporation,

19 Defendants.

21 AND RELATED CROSS-ACTION(S).

) Case No.: 4:07-cv-04408-CW

) **STIPULATION AND ORDER**
) **AMENDING SCHEDULING**
) **ORDER AS MODIFIED**

) Complaint Filed: August 27, 2007
) Hon. Claudia Wilken

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 24 COME NOW, (1) Plaintiff, MIDWEST TRANSPORT, INC.; (2) Defendant/Cross-Defendant,
 25 FCE BENEFIT ADMINISTRATORS, INC.; and (3) Defendant/Cross-Complainant, CALIFIA
 26 DEVELOPMENT CORP. dba CDC INSURANCE SERVICES; and file this Stipulation requesting the
 27 Court to enter an Agreed Amended Scheduling Order in this case and as grounds therefore, would show
 28 the Court as follows:

1. At the time the Agreed Scheduling Order was entered, the parties' initial disclosures had not been fully produced.

2. Since that time the parties have produced voluminous records involving hundreds of health insurance claims, have exchanged and responded to written interrogatories, and following the teleconference with the Court ADR Administrator, at his recommendation have agreed to participate in a Mediation on May 4, 2009 before scheduling party and witness depositions in light of the time, effort, cost and expense in completing depositions discussed in paragraph 3 of this Stipulation and Proposed Order.

3. Discovery is partially complicated by the fact that parties and material witnesses are located in multiple states including Missouri, Texas, Southern California, Illinois and possibly many others. The parties will need to determine whether local manager's depositions will be necessary to fully evaluate all claims and defenses at issue in this action. Depositions of numerous parties and witnesses are expected and the parties are coordinating with regard to both dates and locations. The nature, scope and complexity of the issues in this case, combined with these widespread locations of percipient parties and witnesses, many thousands of pages of documents and files combined with the significant number of parties and witnesses to be deposed militate towards an extension of the Case Management Order deadlines.

4. Based on the foregoing, all parties strongly move the court to extend the current deadline set out in the Scheduling Order entered on March 28, 2008. The proposed revisions do not request any extension or revisions to the original pre-trial conference or original trial date. The parties jointly and unanimously move that the attached Proposed Amended Agreed Scheduling Order submitted by all parties be entered by the Court.

5. This motion is not made for purpose of delay, but so that justice may be done. All parties unanimously agree that a reasonable extension is necessary based upon numerous issues including some of which are set out above.

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ITEM	ORIGINAL DATE	REVISED DATE
Close of Fact Discovery	03/23/2009	07/31/2009
ADR Deadline	02/16/2009	07/31/2009
Disclosure of Experts: MTI Disclosure MTI Depositions CDC/FCE Disclosure CDC/FCE Depositions	07/01/2009 08/03/2009 08/17/2009 09/17/2009	08/03/2009 09/02/2009 09/16/2009 10/16/2009
Dispositive Motion Hearing	05/07/2009	09/19/2009
Pretrial Conference	11/24/2009	Same
Trial	12/07/2009	Same

Dated: March ____, 2009

**MANNING & MARDER
KASS, ELLROD, RAMIREZ LLP**

By: _____
Michael L. Smith
Madonna A. Herman

Attorneys for Defendant and Cross-Complainant,
CALIFIA DEVELOPMENT CORP.
dba CDC INSURANCE SERVICES

Dated: March ____, 2009

CARMODY MACDONALD, P.C.

By: _____
David P. Stoerberl

Attorneys for Plaintiff,
MIDWEST TRANSPORT, INC.

Dated: March ____, 2009

DLA PIPER US LLP

By: _____
Carter W. Ott

Attorneys for Plaintiff,
MIDWEST TRANSPORT, INC.
**FILICE, BROWN, EASSA & MCLEOD,
LLP**

Dated: March ____, 2009

ORDER

FOR GOOD CAUSE SHOWN, the Court grants the parties' request for modification of the March 28, 2008 Scheduling Order as follows:

ITEM	REVISED DATE
Close of Fact Discovery	07/31/2009
ADR Deadline	07/31/2009
Disclosure of Experts: MTI Disclosure CDC/FCE Disclosure	08/03/2009 09/16/2009
Deposition of Experts: MTI Depositions CDC/FCE Depositions	09/02/2009 10/16/2009
Dispositive Motion Hearing and FCMC	09/10/2009
Pretrial Conference	11/24/2009
Trial	12/07/2009

IT IS SO ORDERED:

Dated: 3/25/2009



The Honorable Claudia Wilken