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 6 CALIFIA DEVELOPMENT CORP.
 dba CDC INSURANCE SERVICES
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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.

) Case No.: 4:07-cv-04408-CW
)
)
) **STIPULATION AND ORDER AMENDING SCHEDULING ORDER**
)

15 FCE BENEFIT ADMINISTRATORS, INC., a California Corporation,
 16 and
 17 CALIFIA DEVELOPMENT CORP., d/b/a CDC INSURANCE SERVICES, a California Corporation,
 18 Defendants.
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) Complaint Filed: August 27, 2007
) Hon. Claudia Wilken
)

20 _____)
 21 AND RELATED CROSS-ACTION(S).)
 22 _____)

23
 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 1. At the time the Agreed Scheduling Order was entered, the parties' initial disclosures had
2 not been fully produced.

3 2. Since that time the parties have produced voluminous records involving hundreds of
4 health insurance claims, have exchanged and responded to written interrogatories, and participated in
5 a full day Mediation with court-appointed Mediator, Arthur Siegel on May 4, 2009. Corporate
6 representatives for all parties flew in from multiple states and from southern California and while the
7 case did not resolve, productive post mediation settlement discussions have continued and are ongoing.
8 While all parties continue to negotiate and agree that this is a case that will and should be resolved by
9 way of settlement, the nature of the claims and current settlement position of the parties have led the
10 parties to conclude that depositions and further discovery will be required to clarify the parties'
11 positions on key claims and defenses and continue to move this case towards a position where the
12 existing settlement gap between the parties can be closed and the case resolved.

13 3. Parties and material witnesses are located in multiple states including Missouri, Texas,
14 Southern California, Illinois and possibly many others. Depositions of numerous parties and witnesses
15 are expected and the parties are coordinating with regard to both dates and locations. The nature, scope
16 and complexity of the issues in this case, combined with these widespread locations of percipient
17 parties and witnesses, many thousands of pages of documents and files combined with the significant
18 number of parties and witnesses to be deposed militate towards a revision of the Case Management
19 Order deadlines.

20 4. Additionally on June 8, 2009, Plaintiff filed a Second Amended Complaint which
21 materially expanded the nature, scope and extent of claims against Defendants, which will result in a
22 corresponding increase in the scope of Defendants' investigation and discovery into the additional
23 claims and allegations.

24 5. Having had exchanged and had an opportunity to review all parties' collective
25 production of voluminous files, having prepared for and participated in a full day Mediation with
26 Arthur Siegal and participated in post-Mediation settlement discussions, and having the opportunity
27 to review and analyze the allegations in the Second Amended Complaint, the parties are jointly
28 submitting this Stipulation and Request to revise the existing Scheduling Order for the dual purposes

1 of allowing the parties time to continue investigation and discovery with an emphasis on key
2 depositions which it is hoped will provide all parties with additional testimony and evidence that will
3 result in a re-evaluation of the respective positions which in turn will allow them to bridge the current
4 gap between demands and offers, and a second purpose of allowing time for all parties to lay out a
5 balanced plan of all investigation, discovery, depositions including expert discovery in a manner that
6 will allow all parties to be prepared for trial by the proposed revised date in the event, the parties' best
7 efforts notwithstanding, the case does not resolve.

8 6. Based on the foregoing, all parties strongly move the court to extend the current
9 deadlines set out in the Scheduling Order. The parties jointly and unanimously move that the attached
10 Proposed Amended Agreed Scheduling Order submitted by all parties be entered by the Court.

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

ITEM	CURRENT DATE	REVISED DATE
Close of Fact Discovery	07/31/2009	10/29/2009
ADR Deadline	07/31/2009	07/31/2009
Disclosure of Experts:		
MTI Disclosure	08/03/2009	11/02/2009
MTI Depositions	09/02/2009	12/01/2009
CDC/FCE Disclosure	09/16/2009	12/15/2009
CDC/FCE Depositions	10/16/2009	01/14/2010
Dispositive Motion Hearing	09/19/2009	12/10/2009
Pretrial Conference	11/24/2009	04/06/2010
Trial	12/07/2009	04/12/2010

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Dated: July 30, 2009

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

By: _____
Michael L. Smith
Jennifer L. Supman

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

Dated: July 30, 2009

CARMODY MACDONALD, P.C.

By: /s/ David P. Stoeberl
David P. Stoeberl

Attorneys for Plaintiff,
MIDWEST TRANSPORT, INC.

Dated: July 30, 2009

DLA PIPER US LLP

By: /s/ Carter W. Ott
Carter W. Ott

Attorneys for Plaintiff,
MIDWEST TRANSPORT, INC.

Dated: July 30, 2009

**FILICE, BROWN, EASSA & MCLEOD,
LLP**

By: /s/ Sabrina Karels
Robert D. Eassa
Sabrina Karels

Attorneys for Defendant and Cross-
Defendant,
FCE BENEFIT ADMINISTRATORS, INC.

1 **ORDER**

2 FOR GOOD CAUSE SHOWN, the Court grants the parties' request for modification of the
3 March 25, 2009 Scheduling Order as follows:

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ITEM	REVISED DATE
Close of Fact Discovery	10/29/2009
ADR Deadline	07/31/2009
Disclosure of Experts: MTI Disclosure CDC/FCE Disclosure	11/02/2009 12/15/2009
Deposition of Experts: MTI Depositions CDC/FCE Depositions	12/01/2009 01/14/2010
Dispositive Motion Hearing	12/10/2009
Pretrial Conference	04/06/2010
Trial	04/12/2010

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15 IT IS SO ORDERED:

16 Dated: 8/4
17 _____, 2009



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19 The Honorable Claudia Wilken
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