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 dba CDC INSURANCE SERVICES
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8 UNITED STATES DISTRICT COURT
 9 NORTHERN DISTRICT OF CALIFORNIA
 10 SAN FRANCISCO DIVISION
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12 MIDWEST TRANSPORT, INC., a Delaware
 Corporation,
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 Plaintiff,
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 vs.
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 FCE BENEFIT ADMINISTRATORS, INC., a
 16 California Corporation,
 and
 17
 CALIFIA DEVELOPMENT CORP., d/b/a CDC
 18 INSURANCE SERVICES, a California Corporation,
 19
 Defendants.
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Case No.: 4:07-cv-04408-CW

**STIPULATION AND [PROPOSED]
 ORDER AMENDING
 SCHEDULING ORDER**

Complaint Filed: August 27, 2007
 Hon. Claudia Wilken

21 _____
 AND RELATED CROSS-ACTION(s).
 22 _____

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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 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 parties
17 and witnesses, many thousands of pages of documents and files combined with the significant number
18 of parties and witnesses to be deposed militate towards a revision of the Case Management Order
19 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 Siegel and participated in post-Mediation settlement discussions, and having the opportunity to
27 review and analyze the allegations in the Second Amended Complaint, the parties are jointly submitting
28 this Stipulation and Request to revise the existing Scheduling Order for the dual purposes of allowing

1 the parties time to continue investigation and discovery with an emphasis on key depositions which it
2 is hoped will provide all parties with additional testimony and evidence that will result in a
3 re-evaluation of the respective positions which in turn will allow them to bridge the current gap between
4 demands and offers, and a second purpose of allowing time for all parties to lay out a balanced plan of
5 all investigation, discovery, depositions including expert discovery in a manner that will allow all
6 parties to be prepared for trial by the proposed revised date in the event, the parties' best efforts
7 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	10/29/2009	12/31/2009
ADR Deadline	07/31/2009	07/31/2009
Disclosure of Experts:		
MTI Disclosure	11/02/2009	1/11/2010
MTI Depositions	12/01/2009	1/29/2010
CDC/FCE Disclosure	12/15/2009	2/12/2010
CDC/FCE Depositions	01/14/2010	3/12/2010
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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1 Dated: September 9, 2009

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

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3 By: /s/ Michael L. Smith
4 Michael L. Smith
Jennifer L. Supman

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

9 Dated: September 9, 2009

CARMODY MACDONALD, P.C.

10
11 By: /s/ David P. Stoeberl
12 David P. Stoeberl

13 Attorneys for Plaintiff,
14 MIDWEST TRANSPORT, INC.

15 Dated: September 9, 2009

DLA PIPER US LLP

16
17 By: /s/ Carter W. Ott
Carter W. Ott

18 Attorneys for Plaintiff,
19 MIDWEST TRANSPORT, INC.

20
21 Dated: September 9, 2009

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

22
23 By: /s/ Robert D. Eassa
24 Robert D. Eassa
Sabrina Karels

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

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1 **[PROPOSED] ORDER**

2 FOR GOOD CAUSE SHOWN, the Court grants the parties' request for modification of the
3 July 30, 2009 Scheduling Order as follows:

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5 ITEM	REVISED DATE
6 Close of Fact Discovery	12/31/2009
7 ADR Deadline	07/31/2009
8 Disclosure of Experts: MTI Disclosure	1/11/2010
9 CDC/FCE Disclosure	2/12/2010
10 Deposition of Experts: MTI Depositions	1/29/2010
11 CDC/FCE Depositions	3/12/2010
12 Dispositive Motion Hearing	12/10/2009
13 Pretrial Conference	04/06/2010
14 Trial	04/12/2010

15 IT IS SO ORDERED:

16 Dated: Sept. 14, 2009



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