UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MARK FAGAN,

                Plaintiff(s),

         v.

LIFE INSURANCE COMPANY OF NORTH
AMERICA and NOVARTIS VACCINES AND
DIAGNOSTICS, INC.,

                Defendant(s).

CASE NO. CV09-02658 PJH

STIPULATION AND [~~PROPOSED~~]
ORDER SELECTING ADR PROCESS

Counsel report that they have met and conferred regarding ADR and have reached the following stipulation pursuant to Civil L.R. 16-8 and ADR L.R. 3-5:

The parties agree to participate in the following ADR process:

Court Processes:

- ☐ Non-binding Arbitration (ADR L.R. 4)
- ☐ Early Neutral Evaluation (ENE) (ADR L.R. 5)
- ☐ Mediation (ADR L.R. 6)

(Note: Parties who believe that an early settlement conference with a Magistrate Judge is appreciably more likely to meet their needs than any other form of ADR, must participate in an ADR phone conference and may not file this form. They must instead file a Notice of Need for ADR Phone Conference. See Civil Local Rule 16-8 and ADR L.R . 3-5)

Private Process:

- ☒ Private ADR *(please identify process and provider)* _____
  Mediator James D. Mart, Esq. of JAMS, Inc.

The parties agree to hold the ADR session by:

- ☒ the presumptive deadline *(The deadline is 90 days from the date of the order referring the case to an ADR process unless otherwise ordered.)*

- ☐ other requested deadline _____

Date: October 5, 2009   By: /s/ William Green
                                  William Green, Esq.
                                  Attorney for Plaintiff MARK FAGAN

Date: October 5, 2009   By: /s/ Charan M. Higbee
                                  Charan M. Higbee, Esq.
                                  Attorney for Defendants LIFE INSURANCE COMPANY
                                  OF NORTH AMERICA and NOVARTIS VACCINES AND
                                  DIAGNOSTICS, INC.

[~~PROPOSED~~] ORDER

Pursuant to the Stipulation above, the captioned matter is hereby referred to:

- [ ] Non-binding Arbitration
- [ ] Early Neutral Evaluation (ENE)
- [ ] Mediation
- [x] Private ADR

Deadline for ADR session

- [x] 90 days from the date of this order.
- [ ] other _____

IT IS SO ORDERED.

Dated: 10/7/09 _____

Honor_____
UNIT_____

IT IS SO ORDERED

Judge Phyllis J. Hamilton

JUDGE

CERTIFICATE OF SERVICE
Mark Fagan v. Life Insurance Company of North America and
Novartis Vaccines and Diagnostics, Inc.
USDC NDCA Case #CV09-02658

I am a citizen of the United States. I am over the age of eighteen years and am not a party to the within cause. I am employed in the City and County of San Francisco, California and my business address is 525 California Street, 17th Floor, San Francisco, California 94105.

On this date I served the following document(s):

STIPULATION AND [PROPOSED] ORDER SELECTING ADR PROCESS

on the parties identified below, through their attorneys of record, by placing true copies thereof in sealed envelopes addressed as shown below by the following means of service:

_X_ : **By First Class Mail** -- I caused each such envelope, with first class postage thereon fully prepaid, to be deposited in a recognized place of deposit of the U.S. Mail in San Francisco, California, for collection to the office of the addressee following ordinary business practices.

_☐_ : **By Personal Service** – I caused each such envelope to be given to a courier messenger who personally delivered each such envelope to the office of the address.

_☐_ : **By Overnight Courier** – I caused each such envelope to be given to an overnight mail service at San Francisco, California, to be hand delivered to the office of the addressee on the next business day.

_☐_ : **Facsimile** – (Only where permitted. Must consult CCP § 1012.5 and California Rules of Court 2001-2011. Also consult FRCP Rule 5(e). Not currently authorized in N.D.C.A.)

William Green, Esq.
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Fax: (415) 442-4802

Attorneys for Plaintiff
MARK FAGAN

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct to the best of my knowledge.

EXECUTED **October 5, 2009** at San Francisco, California.

_____
Marissa Y. Otellini