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11	Attorneys for Plaintiff	
12	MARK FAGAN	
13		
14	UNITED STATES DISTRICT COURT	
15	NORTHERN DISTRICT OF CALIFORNIA	
16		
17	MARK FAGAN,	) Case No.: CV09-02658 PJH
18	Plaintiff,	) STIPULATION REGARDING ) STANDARD OF REVIEW; AND
19	V.	) [PROPOSED] ORDER
20	LIFE INSURANCE COMPANY OF NORTH AMERICA and NOVARTIS VACCINES AND	
21	DIAGNOSTICS, INC.,	) Courtroom : 3 ) Floor : 3
22	Defendants.	) Before The Honorable Phyllis J. Hamilton
23		-/
24	IT IS HEREBY STIPULATED, by and between the parties to this action, plaintiff Mark	
25	Fagan and defendants Life Insurance Company of North America and Novartis Vaccines and	
26	Diagnostics, Inc., through their attorneys of record, as follows:	
27		
28	1 STIPULATION REGARDING STANDARD OF REVIEW; AND [PROPOSED] ORDER	
	USDC NDCA Case #CV09-02658 PJH 486851.1	

1	1. The Court shall apply the de novo standard of review to Life Insurance Company of	
2	North America's claim determination, denying plaintiff's claim for long term disability benefits	
3	under the subject group policy and the subject plan, which is the subject of this ERISA action.	
4		
5	Date: November 16, 2009 WILSON, ELSER, MOSKOWITZ,	
6	Date: November 16, 2009 WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP	
7		
8	By: /s/ Charan M. Higbee ADRIENNE C. PUBLICOVER	
9	CHARAN M. HIGBEE Attorneys for Defendants	
10	LIFE INSURANCE COMPANY OF NORTH AMERICA and NOVARTIS VACCINES AND	
11	DIAGNOSTICS, INC.	
12		
13	Date: November 2009 DELFINO, GREEN & GREEN	
14		
15	WILLIAM GREEN Attorneys for Plaintiff	
16 17	MARK FAGAN	
18	ORDER	
19	IT IS SO ORDERED.	
20		
21	Date: 11/19/09  By: FON IT IS SO ORDERED TON RIVER BY	
22	DI IT IS SO RI	
23	Hamilton Z	
24	Judge Phyllis J. Hamilton	
25		
26	DISTRICT OF CE	
27	TOTRIC	
28	2 STIPULATION REGARDING STANDARD OF REVIEW; AND [PROPOSED] ORDER	
	USDC NDCA Case #CV09-02658 PJH 486851.1	

## 1 CERTIFICATE OF SERVICE Mark Fagan v. Life Insurance Company of North America and Novartis Vaccines and Diagnostics, Inc. 2 USDC NDCA Case #CV09-02658 PJH 3 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, 17<sup>th</sup> Floor, San Francisco, California 94105. 4 5 On this date I served the following document(s): 6 STIPULATION REGARDING STANDARD OF REVIEW; AND [PROPOSED] ORDER 7 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 9 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. 10 ☐ : By Personal Service – I caused each such envelope to be given to a courier messenger who 11 personally delivered each such envelope to the office of the address. 12 ☐ : 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 13 business day. 14 ☐ : 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.) 15 16 William Green, Esq. DELFINO, GREEN & GREEN 17 1010 B Street, Suite 320 San Rafael, CA 94901 (415) 442-4646 18 Tel: (415) 442-4802 Fax: 19 Attorneys for Plaintiff MARK FAGAN 20 I declare under penalty of perjury under the laws of the State of California that the 21 foregoing is true and correct to the best of my knowledge. 22 EXECUTED November 16, 2009 at San Francisco, California. 23 24 25 26 27

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