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 MARK FAGAN

13
 14 UNITED STATES DISTRICT COURT
 15 NORTHERN DISTRICT OF CALIFORNIA
 16

17 MARK FAGAN,
 18 Plaintiff,
 19 v.
 20 LIFE INSURANCE COMPANY OF NORTH
 AMERICA and NOVARTIS VACCINES AND
 21 DIAGNOSTICS, INC.,
 22 Defendants.

) Case No.: CV09-02658 PJH
)
) **SECOND STIPULATION TO**
) **CONTINUE HEARING DATE FOR**
) **CROSS-MOTIONS FOR SUMMARY**
) **JUDGMENT; AND [PROPOSED]**
) **ORDER**
)
) Courtroom : 3
) Before The Honorable Phyllis J. Hamilton

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**SECOND STIPULATION TO CONTINUE HEARING DATE FOR
 CROSS-MOTIONS FOR SUMMARY JUDGMENT; AND [PROPOSED] ORDER**

USDC NDCA Case #CV09-02658 PJH
 529819.1

1 **IT IS HEREBY STIPULATED**, by and between the parties to this action, plaintiff Mark
2 Fagan and defendants Life Insurance Company of North America (“LINA”) and Novartis Vaccines
3 and Diagnostics, Inc., through their attorneys of record, as follows:

4 1. The hearing date for cross-motions for summary judgment in this ERISA action
5 currently is set for May 19, 2010 at 9:00 a.m.;

6 2. Defendant LINA recently reached a decision regarding plaintiff’s second
7 administrative appeal as to the disability benefit claim at issue in this lawsuit;

8 3. A letter dated March 31, 2010 was sent to plaintiff, through his attorney of record in
9 this action, advising that the prior decisions to deny plaintiff’s claim for disability benefits under the
10 subject ERISA plan and/or subject group insurance policy was affirmed;

11 4. Defendant LINA requires additional time to send the complete administrative record
12 to its attorneys of record in this action, which will include all documents relating to plaintiff’s
13 second administrative appeal, and LINA’s attorneys need additional time to prepare the
14 administrative record for production to plaintiff in this action;

15 5. The parties therefore stipulate to a 42-day continuance as to the current hearing date
16 for the Cross-Motions for Summary Judgment, and stipulate that the hearing date be re-scheduled for
17 June 30, 2010;

18 6. Good cause exists for this continuance in order that the administrative record
19 submitted to the Court and relied on by the parties in their briefing is complete and accurate; and

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1 **CERTIFICATE OF SERVICE**

2 *Mark Fagan v. Life Insurance Company of North America and*
3 *Novartis Vaccines and Diagnostics, Inc.*
4 *USDC NDCA Case #CV09-02658 PJH*

5 At the time of service I was over 18 years of age and not a party to this action. I am
6 employed by WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP. My business
7 address is 525 Market Street, 17th Floor, San Francisco, California 94105. My business telephone
8 number is (415) 433-0990; my business fax number is (415) 434-1370.

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

10 **SECOND STIPULATION TO CONTINUE HEARING DATE FOR**
11 **CROSS-MOTIONS FOR SUMMARY JUDGMENT; AND [PROPOSED] ORDER**

12 on the person or persons listed below, through their respective attorneys of record in this action, by
13 placing true copies thereof in sealed envelopes or packages addressed as shown below by the
14 following means of service:

15 : **By United States Mail.** I placed the envelope(s) for collection and mailing, following our
16 ordinary business practices. I am readily familiar with this business's practice for collecting
17 and processing correspondence for mailing. On the same day that correspondence is placed
18 for collection and mailing, it is deposited in the ordinary course of business with the United
19 States Postal Service, in a sealed envelope with postage fully prepaid.

20 : **By Overnight Delivery.** I enclosed the documents in an envelope or package provided by an
21 overnight delivery carrier and address to the persons at the addresses below. I placed the
22 envelope or package for collection and overnight delivery at an office or a regularly utilized
23 drop box of the overnight delivery carrier.

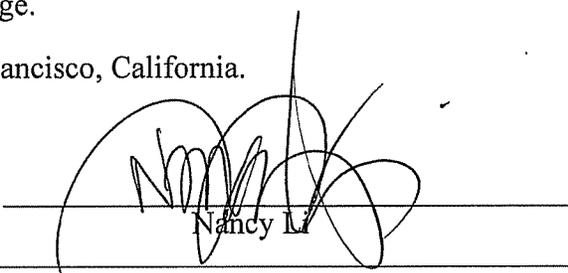
24 : **By Fax Transmission.** Based on an agreement of the parties to accept service by fax
25 transmission, I faxed the documents to the persons at the fax numbers listed below. No error
26 was reported by the fax machine that I used. A copy of the record of the fax transmission,
27 which was printed out, is attached.

28 William Green, Esq.
DELFINO, GREEN & GREEN
1010 B Street, Suite 320
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Tel: (415) 442-4646
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 April 6, 2010 at San Francisco, California.


Nancy L. [unclear]

SECOND STIPULATION TO CONTINUE HEARING DATE FOR
CROSS-MOTIONS FOR SUMMARY JUDGMENT; AND [PROPOSED] ORDER