

Gordon & Rees LLP
275 Battery Street, Suite 2000
San Francisco, CA 94111

1 JORDAN S. ALTURA (SBN: 209431)
2 jaltura@gordonrees.com
3 SPENCER P. HUGRET (SBN: 240424)
4 shugret@gordonrees.com
5 GORDON & REES LLP
6 275 Battery Street, Suite 2000
7 San Francisco, CA 94111
8 Telephone: (415) 986-5900
9 Facsimile: (415) 986-8054

6 Attorneys for Defendant
AETNA LIFE INSURANCE COMPANY

7 ANNA M. MARTIN (SBN 154279)
8 amartin@rimacmartin.com
9 RIMAC MARTIN P.C.
10 1051 Divisadero Street
11 San Francisco, CA 94115
12 Telephone: (415) 561-8440
13 Facsimile: (415) 561-8430

11 Attorneys for Defendants
12 UNUM LIFE INSURANCE COMPANY OF AMERICA and
13 ALLIN CORPORATION GROUP LIFE & DISABILITY PLAN

14 LAURENCE F. PADWAY (SBN 89314)
15 lpadway@padway.com
16 THE LAW OFFICES OF LAURENCE F. PADWAY
17 1516 Oak Street, Suite 109
18 Alameda, CA 94501
19 Telephone: (510) 814-6100
20 Facsimile: (510) 814-0650

17 Attorney for Plaintiff ELGIN K. COX

19 UNITED STATES DISTRICT COURT
20 NORTHERN DISTRICT OF CALIFORNIA

21 ELGIN K. COX,) CASE NO. C12-5880-SBA
22)
23 Plaintiff,) **STIPULATION AND ~~PROPOSED~~**
24 vs.) **ORDER VACATING REFERRAL TO**
25) **MANDATORY SETTLEMENT**
26) **CONFERENCE AND SETTING A**
27) **NEW HEARING DATE AND**
28 ALLIN CORPORATION PLAN and UNUM LIFE) **BRIEFING SCHEDULE ON THE**
INSURANCE COMPANY OF AMERICA, DELL,) **PARTIES' DISPOSITIVE MOTIONS**
INC. COMPREHENSIVE WELFARE BENEFITS)
PLAN, DELL, INC., ADMINISTRATION AND)
INVESTMENT COMMITTEE, AETNA LIFE)
INSURANCE COMPANY,) Action Filed: November 16, 2012
Defendants.) Hon. Sandra Brown Armstrong

1 TO THE HONORABLE COURT:
2 Counsel for Plaintiff Elgin K. Cox and Defendants Aetna Life Insurance Company,
3 Unum Life Insurance Company Of America and Allin Corporation Group Life & Disability Plan
4 stipulate as follows and request that the Court vacate the referral to a Mandatory Settlement
5 Conference and set a new hearing date and briefing schedule on the parties' dispositive motions
6 based on the following:

7 WHEREAS: On November 19, 2013, the parties participated in a mediation with Mark
8 Humbert, a mediator selected from the Court's ADR panel who has extensive experience
9 mediating ERISA disability cases;

10 WHEREAS: Despite the mediator's and the parties' best efforts, the parties had
11 significant differences about the merits and value of this case, and the mediation was terminated;

12 WHEREAS: Following mediation, the parties filed opening briefs in support of their
13 respective dispositive motions, which were consistent with the positions taken at mediation by
14 each party;

15 WHEREAS: On January 29, 2014, the Court vacated the hearing date and briefing
16 schedule with respect to the parties' dispositive motions, and ordered the parties to participate in
17 a Mandatory Settlement Conference (MSC) with a Federal Magistrate Judge;

18 WHEREAS: The parties agree that their positions have not changed since the
19 unsuccessful mediation – despite the factual and legal arguments asserted in the dispositive
20 motions – and agree this matter will not settle at the MSC and that the MSC will result in a
21 significant waste of the parties' and the Court's time and resources;

22 WHEREAS: The parties seek to have the Court decide this matter based on the
23 arguments made in their respective dispositive motions;

24 In consideration of the foregoing, the parties respectfully request the Court vacate the
25 MSC and set a briefing schedule and new hearing date for the dispositive motions, as set forth
26 below, or as soon thereafter as the matter may be heard:

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Opening briefs: FILED
Oppositions: March 25, 2014
Hearing: April 15, 2014

IT IS SO STIPULATED.

Dated: February 21, 2014
GORDON & REES LLP
By /s/ Jordan S. Altura
Jordan S Altura
Spencer P. Hugret
Attorneys for Defendant
AETNA LIFE INSURANCE COMPANY

Dated: February 21, 2014
THE LAW OFFICES OF LAURENCE F. PADWAY
By /s/ Laurence F. Padway
Laurence F. Padway
Attorney for Plaintiff
ELGIN K. COX

Dated: February 21, 2014
RIMAC MARTIN P.C.
By /s/ Anna M. Martin
Anna M. Martin
Attorneys for Defendants
UNUM LIFE INSURANCE COMPANY OF AMERICA and ALLIN CORPORATION
GROUP LIFE & DISABILITY PLAN

ATTESTATION OF E-FILED SIGNATURES

I, Jordan S. Altura, am the ECF user whose ID and password are being used to file this Stipulation and [Proposed] Order Vacating Referral to Mandatory Settlement Conference and Setting a New Hearing Date and Briefing Schedule on the Parties' Dispositive Motions. In compliance with Local Rule 5-1(i), I hereby attest that Laurence F. Padway, counsel for Plaintiff Elgin K. Cox, and Anna M. Martin, counsel for Defendants UNUM Life Insurance Company of America and Allin Corporation Group Life & Disability Plan, has concurred in this filing.

Dated: February 21, 2014

GORDON & REES LLP

By /s/ Jordan S. Altura
Jordan S Altura
Attorneys for Defendant
AETNA LIFE INSURANCE COMPANY

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ORDER

Pursuant to the Stipulation above and for good cause shown, the referral to a Mandatory Settlement Conference is hereby vacated. The briefing schedule and hearing on the parties' dispositive motions is reinstated, as follows:

Oppositions: March 25, 2014

Hearing: May 6, 2014

IT IS SO ORDERED. Pursuant to Civil Local Rule 7-1(b), the Court may resolve the motion without oral argument. The parties are advised to check the Court's website to determine whether an appearance on the motion is required.

Dated: 3/5/2014


SAUNDRA BROWN ARMSTRONG
UNITED STATES DISTRICT COURT JUDGE