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16 *Counsel for Plaintiff*

17 UNITED STATES DISTRICT COURT
 18 NORTHERN DISTRICT OF CALIFORNIA

19 In re CONSECO INSURANCE CO.
 20 ANNUITY MARKETING & SALES
 21 PRACTICES LITIG.

Case No.: C-05-04726-RMW

CLASS ACTION

22 This Case Relates To:

23 **STIPULATION AND ORDER FOR**
 24 **SCHEDULING CLASS CERTIFICATION**
 25 **ISSUES AND ORDER**

26 ALL ACTIONS.

STIPULATION

27 Whereas, the Parties delayed proceedings on class certification issues while exploring
 28 settlement possibilities and proceeding to mediation with Judge Edward Infante (ret.) on three
 occasions, including February 25, 2010 and March 11, 2010;

Whereas, the Parties, having previously been unable to resolve this lawsuit, believed that
 the case should move forward, even as they continued to explore settlement;

Whereas, Plaintiff filed his Motion for Class Certification and supporting documents on
 June 7, 2010 to which Defendants responded on August 21, 2010;

1 Whereas, the hearing on Plaintiff's Motion for Class Certification is presently scheduled
2 for October 8, 2010;

3 Whereas, on September 14 and 15, 2010, the Parties engaged in further meaningful face-to-
4 face settlement negotiations;

5 Whereas, the Parties are continuing final phases of negotiation that they believe may
6 achieve a full and final settlement in resolution of this action;

7 Whereas, the Parties believe in good faith that the interests of efficient case management
8 and judicial economy merit a continuance of the pending hearing on Plaintiff's Motion for Class
9 Certification to allow them to fully concentrate their efforts on reaching an amicable resolution,
10 and;

11 Whereas, the Parties believe that suspending all class certification discovery or briefing for
12 a reasonable period to allow them sufficient time to complete final settlement negotiations is
13 necessary.

14 Now, therefore, Plaintiff and all Defendants hereby stipulate and agree to the following
15 revised schedule for class certification, subject to the Court's approval:

16 1. The hearing on Plaintiffs Motion for Class Certification shall be continued to
17 December 3, 2010;

18 2. Plaintiff shall file his reply to Defendants' response to the Motion for Class
19 Certification on or before November 24, 2010;

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1 3. If the matter is settled, the Parties will apply for preliminary approval within
2 sufficient time so that such application shall be heard on December 3,2010 in lieu of the motion for
3 class certification.

4 DATED: September 27, 2010

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6
7 /s/ THEODORE PINTAR
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ORDER

The Court having considered the above stipulation and good cause appearing,

IT IS HEREBY ORDERED that the parties shall comply with the schedule set forth above.

IT IS FURTHER ORDERED that the hearing on Plaintiff's Motion for Class Certification shall be scheduled for December 3, 2010, at 9:00 a.m. in Courtroom 6 of this Court.

IT IS FURTHER ORDERED that should the parties achieve an amicable resolution of the action via settlement, they shall work diligently to prepare and execute settlement documents and shall seek preliminary approval of the settlement on December 3, 2010 at 9:00 a.m. in Courtroom 6 of this Court, in lieu of a hearing on Plaintiff's Motion for Class Certification on that date.

DATED: 10/4/10



Ronald M. Whyte
United States District Court Judge