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E-filed 4/13/2011

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

BAY AREA SURGICAL GROUP, INC.,
Plaintiff,
v.
ANTHEM BLUE CROSS LIFE AND HEALTH
INSURANCE COMPANY, INC.,
Defendant.

Case Number 5:11-CV-00277 JF (PSG)
**ORDER¹ GRANTING MOTION TO
DISMISS WITH LEAVE TO
AMEND**
[Re: Docket No. 6]

Plaintiff Bay Area Surgical Group, Inc. brings the instant action against Defendant Anthem Blue Cross Life and Health Insurance Company, Inc. for breach of contract and breach of the implied covenant of good faith and fair dealing. Defendant moves to dismiss the complaint for failure to state a claim upon which relief may be granted. The Court concludes that the motion is appropriate for determination without oral argument and will vacate the hearing scheduled for April 15, 2011. *See* Civ. L. R. 7-1(b).

Plaintiff's opposition papers were due at least twenty-one days before the noticed hearing

¹ This disposition is not designated for publication in the official reports.

1 date of April 15, 2011, or no later than March 25, 2011. *See* Civ. L. R. 7-3(a). As of the date of
2 this order, Plaintiff has not filed opposition papers. Because the instant motion appears well-
3 taken and is unopposed, the motion will be granted, with leave to amend.

4
5 **ORDER**

6 For good cause shown:

- 7 (1) the motion to dismiss is GRANTED, with leave to amend;
8 (2) the motion to strike portions of Plaintiff's Complaint is DENIED as moot;
9 (3) any amended pleading shall be filed within twenty (20) days of the date this order
10 is filed;
11 (4) the hearing date of April 15, 2011 is VACATED.

12
13 **IT IS SO ORDERED**

14
15 DATED: April 12, 2011

16 
17 JEREMY FOGEL
18 United States District Judge