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3 **E-filed 4/13/2011**
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8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
10 **SAN JOSE DIVISION**
11

12 BAY AREA SURGICAL GROUP, INC.,

13 Plaintiff,

14 v.

15 BLUE CROSS OF CALIFORNIA,

16 Defendant.
17

Case Number 5:11-CV-00280 JF (PSG)

**ORDER¹ GRANTING MOTION TO
DISMISS WITH LEAVE TO
AMEND**

[Re: Docket No. 9]

18 Plaintiff Bay Area Surgical Group, Inc. brings the instant action against Defendant Blue
19 Cross of California for breach of contract and breach of the implied covenant of good faith and
20 fair dealing. Defendant moves to dismiss the complaint for failure to state a claim upon which
21 relief may be granted. The Court concludes that the motion is appropriate for determination
22 without oral argument and will vacate the hearing scheduled for April 15, 2011. *See* Civ. L. R.
23 7-1(b).
24

25 Plaintiff's opposition papers were due at least twenty-one days before the noticed hearing
26 date of April 15, 2011, or no later than March 25, 2011. *See* Civ. L. R. 7-3(a). As of the date of
27 this order, Plaintiff has not filed opposition papers. Because the instant motion appears well-

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

1 taken and is unopposed, the motion will be granted, with leave to amend.

2
3 **ORDER**

4 For good cause shown:

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

11 **IT IS SO ORDERED**

12
13 DATED: April 12, 2011

14 
15 JEREMY FOGEL
16 United States District Judge