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 14

15 UNITED STATES DISTRICT COURT
 16 DISTRICT OF NEVADA

17 VALLEY HEALTH SYSTEM LLC et al.,)
 18 Plaintiffs,)
 19 vs.)
 20 AETNA HEALTH, INC. et al.,)
 21 Defendants.)
 22 _____)

No. 2:15-cv-01457-JCM-NJK
**JOINT MOTION AND PROPOSED
 ORDER TO AMEND SCHEDULING
 ORDER AND DISCOVERY PLAN**
(Fourth Request for Extension)
 Trial Date: None set

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1 Pursuant to LR IA 6-1 and LR 26-4, Plaintiffs Valley Health System, LLC and
2 Summerlin Hospital Medical Center, LLC (“Valley Health” or Plaintiffs”) and Defendants
3 Aetna Health, Inc. and Aetna Health Management, LLC (“Aetna” or “Defendants”)
4 (collectively, the “Parties”) jointly move to amend the October 5, 2015 Scheduling Order and
5 Discovery Plan [Doc. 30], as amended on January 29, 2016 [Doc. 37], June 14, 2016 [Doc.40],
6 and September 27, 2016 [Doc. 77] (the “Scheduling Order”), to extend the deadlines in this
7 case as set forth below. This is the fourth motion to extend deadlines.

8 Valley Health has moved to dismiss the counterclaims and compel arbitration of
9 portions of it [Docs. 55 and 58.]; Aetna has responded to those motions [Docs. 59 and 60.]; and
10 Valley Health replied to those motions. The full scope of the claims and defenses at issue in
11 this case remains to be determined. Valley Health has also moved to compel further document
12 production from Aetna [Doc. 69]. The Parties are waiting for rulings from the Court on these
13 pending motions that will impact the discovery left to be completed by the Parties.

14 **A. Discovery Completed and Remaining to Be Completed**

15 The Parties have exchanged extensive discovery but the scope of material involved with
16 the original lawsuit continues to require more work to compile and produce. This is not
17 including any discovery that would be required for Aetna’s counterclaims or follow-up
18 discovery related to Valley’s Health’s pending motion to compel. So even if the counterclaims
19 do not proceed, the Parties’ experience with the materials produced so far supports that they
20 need more time to complete discovery.

21 **1. Written Discovery**

22 As the Parties have previously noted, this is a document-intensive case involving
23 voluminous sets of data and records relating to about 4,500 bills that Valley Health’s hospitals
24 submitted to Aetna. To date, Aetna has produced approximately **392,044** pages of documents
25 responsive to Valley Health’s requests for production and Valley Health has produced
26 approximately **281,049** pages of documents responsive to Aetna’s requests for production.
27 Aetna and Valley Health also recently served additional follow-up document requests on each
28 other. Nevertheless, with the exception of documents subject to Valley Health’s pending

1 motion to compel [Doc. 69], and subject to ongoing meet-and-confer discussions regarding
2 certain categories of documents, the Parties presently anticipate completing their respective,
3 rolling document productions by November 30, 2016.

4 **2. Depositions**

5 The Parties also have scheduled eleven depositions starting in mid-October 2016
6 through mid-December. To date, the Parties have conducted four depositions with the
7 remaining seven to take place in November through mid-December. Several of the depositions
8 will require travel to Connecticut and California given where the witnesses reside. The
9 upcoming depositions have been scheduled as follows pending the Court's order: November 16
10 (Valley Health's witness/Las Vegas); November 17 (Valley Health's witness/Las Vegas);
11 November 18 (Valley Health's witness/Las Vegas); November 21 (Valley Health's witness/Las
12 Vegas); December 7 (Valley Health's witness/Orange County, California); December 14
13 (Aetna's witness/Hartford, CT); December 15 (Aetna's witness/Hartford, CT); and December
14 16 (Aetna's witness/Hartford, CT).¹

15 **3. Reasons Why Current Deadlines Cannot Be Satisfied**

16 As described above, this case involves hundreds of thousands of documents that have
17 already been produced relating to approximately 4,500 bills, and the Parties are continuing to
18 produce documents on a rolling basis. Valley Health asserts money owed of over \$30 million
19 in underpaid bills.

20 Despite the Parties' best, good-faith efforts, including numerous calls among counsel to
21 meet and confer regarding document production and to coordinate schedules for depositions,
22 the Parties will be unable to complete their production of documents and depositions in advance
23 of the current discovery cutoff of December 9, 2016. Due to the schedules of witnesses and
24 counsel, as well as the need to substantially complete document production in advance of
25 depositions, the Parties' current deposition schedule anticipates depositions through at least

26 ¹ The depositions scheduled for December 14, 15, and 16 were scheduled for November
27 8, 9, and 10. However, due to unforeseen scheduling issues, the earliest mutually available
28 dates for counsel and the witnesses to reschedule these depositions are December 14, 15, and
16, 2016.

1 December 16, 2016, with the possibility that additional deponents and documents may be
2 identified as discovery progresses.

3 **B. Expert Disclosures and Depositions**

4 Valley Health served its initial expert disclosures on August 18, 2016, and Aetna served
5 its initial rebuttal expert disclosures on September 16. A dispute has arisen concerning the
6 expert disclosures, wherein Valley Health disputes Aetna's characterization of its September 16
7 disclosure as being proper rebuttal. Aetna believes that its expert report appropriately provides
8 only rebuttal opinions, responsive to the opinions expressed by Valley Health's expert. The
9 parties have met and conferred regarding Valley Health's intended motion to strike Aetna's
10 "rebuttal" expert disclosure. The parties anticipate that additional modifications to expert
11 witness deadlines may be warranted depending on the outcome of the anticipated motion to
12 strike and fact information uncovered at fact witness depositions.

13 Finally, because there is no trial currently set in this case, the brief extension of the
14 discovery cutoff will have no impact on any other deadlines currently established by the Court,
15 nor will it delay the trial of this matter. As previously noted, because of trials the Parties'
16 counsel have in other matters, and because of the anticipated amount of time needed for trial in
17 this case, it does not appear that the Parties are jointly available to proceed with trial until at
18 least July 2017.

19 For the foregoing reasons, the Parties submit that good cause exists for the extension of
20 the deadlines in the Scheduling Order and respectfully request the dates be revised as follows:

- 21 A. Close of fact discovery: January 20, 2017
- 22
- 23 B. Final date to file dispositive motions: February 21, 2017
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- 25 C. Joint Proposed Pretrial Order: March 23, 2017
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IT IS SO STIPULATED.

DATED this 1st day of November, 2016.

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IT IS SO ORDERED.

UNITED STATES MAGISTRATE JUDGE

DATED: November 1, 2016