

KASOWITZ, BENSON, TORRES & FRIEDMAN LLP
101 CALIFORNIA STREET, SUITE 2300
SAN FRANCISCO, CALIFORNIA 94111

1 KASOWITZ, BENSON, TORRES & FRIEDMAN LLP
2 CHARLES N. FREIBERG (SBN 70890)
3 BRIAN P. BROSNAHAN (SBN 112894)
4 JACOB N. FOSTER (SBN 250785)
5 101 California Street, Suite 2300
6 San Francisco, California 94111
7 Telephone: (415) 421-6140
8 Facsimile: (415) 398-5030

6 LEVINE & MILLER
7 HARVEY R. LEVINE (SBN 61879)
8 CRAIG A. MILLER (SBN 116030)
9 LEVINE & MILLER
10 550 West C Street, Suite 1810
11 San Diego, CA 92101-8596
12 Telephone: (619) 231-9449
13 Facsimile: (619) 231-8638

11 Attorneys for Plaintiffs
12 JOYCE WALKER, KIM BRUCE HOWLETT,
13 and MURIEL SPOONER, on behalf of themselves
14 and all others similarly situated

14 **UNITED STATES DISTRICT COURT**
15 **CENTRAL DISTRICT OF CALIFORNIA**

17 JOYCE WALKER, KIM BRUCE
18 HOWLETT, and MURIEL
19 SPOONER, on behalf of themselves
20 and all others similarly situated,

20 Plaintiffs,

21 v.

22 LIFE INSURANCE COMPANY OF
23 THE SOUTHWEST, a Texas
24 corporation,

25 Defendant.

CLASS ACTION

CASE NO.: CV 10-9198 JVS (RNBx)

Formerly Case No.: 3:10-cv -04852
JSW from Northern District of CA

**JOINT STIPULATION TO MODIFY
THE SECOND AMENDED
PRETRIAL SCHEDULING ORDER**

1 Pursuant to Local Rule 7-1, Plaintiffs Joyce Walker, Kim Bruce Howlett,
2 and Muriel Spooner (“Plaintiffs”) and Defendant Life Insurance Company of the
3 Southwest (“LSW”) (collectively, the “parties”), by and between their undersigned
4 counsel, submit the following stipulation:

5 WHEREAS, the Court indicated at the September 18, 2012 hearing on
6 Plaintiffs’ motion for class certification that the Court likely would not enter a
7 ruling on Plaintiffs’ motion for at least three to four weeks;

8 WHEREAS, the existing trial date of January 24, 2013 entails numerous
9 pretrial deadlines and related pretrial obligations, based upon the schedule set forth
10 in the Court’s Order for Jury Trial (May 10, 2011, Document 61) and Order
11 Setting Scheduling Conference (March 21, 2011, Document 51), that may be
12 significantly affected by the Court’s ruling on Plaintiffs’ motion for class
13 certification. An adjustment of the existing schedule is necessary in order to
14 enable the parties to complete their pretrial obligations with knowledge of the
15 Court’s ruling on the motion for class certification;

16 WHEREAS, pursuant to the Second Amended Pretrial Scheduling Order, all
17 written discovery must be served by Friday, September 21, 2012;

18 WHEREAS, the parties expect to propound additional written discovery
19 following the Court’s ruling on Plaintiffs’ motion for class certification, which
20 written discovery may rely on and be influenced by how the Court rules on
21 Plaintiffs’ motion for class certification;

22 WHEREAS, the other deadlines set forth in the Second Amended Pretrial
23 Scheduling Order also should be modified to take place after the Court issues a
24 ruling on Plaintiffs’ motion for class certification, as any further depositions,
25 expert reports, and motions in this matter may rely on and be influenced by how
26 the Court rules on Plaintiffs’ motion for class certification;

27 WHEREAS, the parties met and conferred regarding modifying the
28 deadlines in the Second Amended Pretrial Scheduling Order to take place after the

1 Court rules on Plaintiffs' motion for class certification;

2 WHEREAS, the parties wish to preserve (with some minor modifications for
3 purposes of convenience) the time periods between the scheduling events as set
4 forth in the Second Amended Pretrial Scheduling Order;

5 WHEREAS, good cause exists to continue the September 21, 2012 deadline
6 for written discovery, and to modify the other dates in the Second Amended
7 Pretrial Scheduling Order in order to conserve the resources of the parties and the
8 Court until the Court issues a ruling on Plaintiffs' motion for class certification;

9 IT IS HEREBY STIPULATED AND AGREED, by and between the
10 undersigned counsel for the parties:

11 1. All of the dates in the Second Amended Pretrial Scheduling Order
12 shall be modified as set forth below. This amended schedule generally preserves
13 the time periods between the scheduling events as set forth in the Second Amended
14 Pretrial Scheduling Order, but extends the scheduled date by the number of days
15 that elapses from the September 18, 2012 hearing until the date the Court rules on
16 Plaintiffs' motion for class certification, plus 21 days. The scheduling of the trial
17 date below is provisional only, and may need to be reset depending on the Court's
18 calendar. However, the scheduled dates described below are reset in order to
19 provide clarity to the parties regarding their pretrial obligations. Within seven days
20 after the Court rules on Plaintiffs' motion for class certification, the parties shall
21 submit a proposed order specifying dates that comport with the schedule described
22 below.

23 2. The deadline for written discovery shall be modified to 21 days after
24 the Court rules on Plaintiffs' motion for class certification. Accordingly, all
25 interrogatories, requests for documents, and requests for admission, previously
26 required to be served no later than September 21, 2012, shall be served no later
27 than 21 days after the Court rules on Plaintiffs' motion for class certification.

28 3. The trial date, previously set for January 24, 2013, shall be extended

KASOWITZ, BENSON, TORRES & FRIEDMAN LLP
101 CALIFORNIA STREET, SUITE 2300
SAN FRANCISCO, CALIFORNIA 94111

1 by the number of days that elapses from the September 18, 2012 hearing until the
2 date the Court rules on Plaintiffs' motion for class certification, plus 21 days. The
3 pretrial conference, previously set for January 14, 2013, will take place 10 days
4 before the amended trial date, in accordance with the Second Amended Pretrial
5 Scheduling Order.

6 4. The deadline for non-expert fact discovery, previously to remain open
7 until November 5, 2012, shall be extended by the number of days that elapses from
8 the September 18, 2012 hearing until the date the Court rules on Plaintiffs' motion
9 for class certification, plus 21 days. Pursuant to the Trial Order, all depositions,
10 previously to commence no later than October 29, 2012, shall commence no later
11 than 5 working days before the close of non-expert fact discovery.

12 5. Expert discovery, previously to remain open until December 20, 2012,
13 will remain open until five weeks before the amended trial date. In accordance
14 with the Second Amended Pretrial Scheduling Order, the parties shall submit their
15 expert disclosures no later than eight weeks (56 days) prior to the amended close of
16 expert discovery, any rebuttal expert disclosures no later than five weeks (35 days)
17 prior to the amended close of expert discovery, and any reply expert disclosures no
18 later than two weeks (14 days) prior to the amended close of expert discovery. All
19 expert depositions shall commence no later than the date for the amended close of
20 expert discovery.

21 6. The last date for hearing motions will be seven weeks (49 days)
22 before the trial date. The Court orders that all motions, previously to be served and
23 filed no later than November 2, 2012, shall be served and filed no later than four
24 weeks (28 days) before the last date for hearing motions. The parties will meet and
25 confer to agree on briefing schedules and will submit them to the Court for
26 approval.

27 7. Pursuant to the Trial Order and in compliance with Local Rule 6, all
28 motions *in limine*, previously to be filed and served no later than December 17,

2012, shall be filed and served no later than four weeks (28 days) prior to the amended pretrial conference date.

8. Pursuant to and in compliance with Local Rule 16, the parties' Pretrial Conference Order, previously to be lodged no later than January 4, 2013, shall be lodged no later than 11 days before the amended pretrial conference date.

9. Pursuant to and in compliance with Local Rule 16, all Memoranda of Contentions of Fact and Law, Exhibit Lists, and Witness Lists, previously to be submitted no later than December 21, 2012, shall be submitted no later than three weeks (21 days) prior to the amended pretrial conference date.

10. The parties will participate in a non-judicial dispute resolution proceeding, Settlement Procedure Number 3 under Local Rule 16-15.4. The last date for completion of this Settlement Procedure shall be no later than the amended close of non-expert fact discovery.

11. The parties may seek modification of this Order at any time and for good cause shown.

DATED: September 20, 2012 KASOWITZ BENSON TORRES & FRIEDMAN LLP

By: /s/ Brian P. Brosnahan
Brian P. Brosnahan

Attorneys For Plaintiffs
JOYCE WALKER, KIM BRUCE HOWLETT,
and MURIEL SPOONER, on behalf of
themselves and all others similarly situated

KASOWITZ, BENSON, TORRES & FRIEDMAN LLP
101 CALIFORNIA STREET, SUITE 2300
SAN FRANCISCO, CALIFORNIA 94111

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

WILMER CUTLER PICKERING HALE AND
DORR LLP

By: /s/ Jonathan A. Shapiro
Jonathan A. Shapiro

Attorneys For Defendant
LIFE INSURANCE COMPANY OF THE
SOUTHWEST

KASOWITZ, BENSON, TORRES & FRIEDMAN LLP
101 CALIFORNIA STREET, SUITE 2300
SAN FRANCISCO, CALIFORNIA 94111