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and all others similarly situated

12
13 **UNITED STATES DISTRICT COURT**
14 **CENTRAL DISTRICT OF CALIFORNIA**

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

19 Plaintiffs,

20 v.

21 LIFE INSURANCE COMPANY
OF THE SOUTHWEST, a Texas
22 corporation,

23 Defendant.

CLASS ACTION

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

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

**JOINT STIPULATION RESOLVING
REMAINING ISSUES ON
PLAINTIFFS' MOTION TO COMPEL**

Magistrate Judge Robert N. Block

Date: January 15, 2013
Time: 9:30 a.m.
Courtroom: 6D

Discovery Cutoff: TBD
Pretrial Conference: TBD
Trial Date: TBD

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1 The parties have met and conferred further as directed by the Court's order
2 on Plaintiffs' Motion to Compel (Dkt. 365). The parties have resolved the
3 remaining issues and Plaintiffs hereby withdraw the pending motion to compel.

4 The parties' agreements are as follows:

5 (1) LSW's response to Document Request No. 125: LSW has agreed to
6 elect, by the close of business on January 15, 2013, one of the following document
7 search efforts. LSW will either:

8 (a) conduct an electronic search of data collected from its custodians for
9 documents containing either (i) the phrase "lapse check," or (ii) the phrases
10 "'regression' and 'lapse'" within a single document. LSW would then produce all
11 non-privileged documents identified by (i.e., that are "hits" in) such a search; or,

12 (b) ask its custodians whether they either (i) have in their possession,
13 custody, or control, or (ii) have previously seen documents discussing analyses of
14 Paragon or Provider illustrations with respect to lapse, including but not limited to
15 documents that substantively discuss "lapse checks" or regression analysis in
16 regards to lapse (as discussed in LSW-E00067995). LSW's custodians will be
17 provided with a copy of LSW-E00067995 for purposes of clarity. If any of LSW's
18 custodians have such documents in their possession, custody, or control, LSW will
19 produce non-privileged documents to Plaintiffs. If LSW's custodians have
20 previously seen such documents, but no longer have them in their possession,
21 custody, or control, LSW's custodians will be asked to identify the person[s] from
22 whom they would request such documents if they needed the documents for a
23 business purpose. Any persons identified not already on the custodian list will
24 then be sent the same inquiry discussed above. LSW will produce responsive non-
25 privileged documents identified by these inquiries.

26 (2) LSW's production of a Rule 30(b)(6) witness to testify on Deposition
27 Topic Nos. 1-5: LSW has agreed to designate Elizabeth MacGowan as a Rule
28 30(b)(6) witness to testify on Deposition Topic Nos. 1-5. LSW will make Ms.

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1 MacGowan available for up to 1.5 hours of testimony as a Rule 30(b)(6) witness.
2 If LSW tenders Ms. MacGowan as a percipient witness on the same day as her
3 testimony on Deposition Topic Nos. 1-5, then she will not be deposed for more
4 than 8 hours total on that date as a percipient witness and Rule 30(b)(6) witness for
5 Deposition Topic Nos. 1-5. LSW may also elect to have Ms. McGowan finish this
6 combined total of 8 hours of testimony on a second consecutive day, as opposed to
7 8 hours on one single day. Ms. MacGowan’s testimony as a Rule 30(b)(6) witness
8 on Deposition Topic Nos. 1-5 will not count against the 3 days of Rule 30(b)(6)
9 depositions provided for pursuant to the Amended Pretrial Scheduling Order (Dkt.
10 117).

11 (3) LSW’s production of a Rule 30(b)(6) witness to testify on Deposition
12 Topic Nos. 33: LSW has agreed to answer the interrogatory concerning cost of
13 insurance charges that was proposed by Plaintiffs. *See* Joint Stipulation (Dkt. 359)
14 at 36-37 (“Please describe the setting of your cost of insurance charges for
15 PROVIDER and PARAGON. Your answer will be considered complete if it
16 describes who was involved in the setting of your cost of insurance charges for
17 PROVIDER and PARAGON, what factors and what data were considered, why
18 you chose the cost of insurance charges that you chose, what analysis you did of
19 your expected mortality experience for each such product, and the amount(s) by
20 which such charges exceed your expected mortality experience.”).

21 DATED: January 14, 2013 KASOWITZ BENSON TORRES & FRIEDMAN
22 LLP
23 By: /s/ Brian P. Brosnahan
24 Charles N. Freiberg
25 Brian P. Brosnahan
26 Jacob N. Foster
27 Attorneys For Plaintiffs
28 JOYCE WALKER, KIM BRUCE HOWLETT,
and MURIEL SPOONER, on behalf of
themselves and all others similarly situated

1 DATED: January 14, 2013

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Attorneys for Defendant Life Insurance Company
of the Southwest

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