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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

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

Plaintiffs,

v.

LIFE INSURANCE COMPANY OF
THE SOUTHWEST, a Texas
corporation,

Defendant.

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

**[PROPOSED] ORDER GRANTING
JOINT STIPULATION AND
VACATING HEARING ON
PLAINTIFFS' MOTION TO
COMPEL**

**[PROPOSED] ORDER GRANTING JOINT STIPULATION AND
VACATING HEARING ON PLAINTIFFS' MOTION TO COMPEL**

Having considered the parties' Joint Stipulation to Vacate the Hearing on Plaintiffs' Motion to Compel, set for Tuesday, January 15, 2013 at 9:30 a.m., and good cause appearing, the Court hereby ORDERS that the January 15, 2013 hearing on Plaintiffs' Motion to Compel is vacated in light of the parties' resolution of the remaining issues identified in this Court's December 14, 2012 Minute Order (Dkt. 365).

With respect to the remaining discovery issues identified in the Minute Order, and in accordance with the parties' Joint Stipulation, the Court ORDERS the following:

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

(a) conduct an electronic search of data collected from its custodians for

1 documents containing either (i) the phrase “lapse check,” or (ii) the phrases
2 “‘regression’ and ‘lapse’” within a single document. LSW would then produce all
3 non-privileged documents identified by (i.e., that are “hits” in) such a search; or,
4 (b) ask its custodians whether they either (i) have in their possession,
5 custody, or control, or (ii) have previously seen documents discussing analyses of
6 Paragon or Provider illustrations with respect to lapse, including but not limited to
7 documents that substantively discuss “lapse checks” or regression analysis in
8 regards to lapse (as discussed in LSW-E00067995). LSW’s custodians will be
9 provided with a copy of LSW-E00067995 for purposes of clarity. If any of LSW’s
10 custodians have such documents in their possession, custody, or control, LSW will
11 produce non-privileged documents to Plaintiffs. If LSW’s custodians have
12 previously seen such documents, but no longer have them in their possession,
13 custody, or control, LSW’s custodians will be asked to identify the person[s] from
14 whom they would request such documents if they needed the documents for a
15 business purpose. Any persons identified not already on the custodian list will
16 then be sent the same inquiry discussed above. LSW will produce responsive non-
17 privileged documents identified by these inquiries.

18 (2) LSW’s production of a Rule 30(b)(6) witness to testify on Deposition
19 Topic Nos. 1-5: LSW has agreed to designate Elizabeth MacGowan as a Rule
20 30(b)(6) witness to testify on Deposition Topic Nos. 1-5. LSW will make Ms.
21 MacGowan available for up to 1.5 hours of testimony as a Rule 30(b)(6) witness.
22 If LSW tenders Ms. MacGowan as a percipient witness on the same day as her
23 testimony on Deposition Topic Nos. 1-5, then she will not be deposed for more
24 than 8 hours total on that date as a percipient witness and Rule 30(b)(6) witness for
25 Deposition Topic Nos. 1-5. LSW may also elect to have Ms. McGowan finish this
26 combined total of 8 hours of testimony on a second consecutive day, as opposed to
27 8 hours on one single day. Ms. MacGowan’s testimony as a Rule 30(b)(6) witness
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1 on Deposition Topic Nos. 1-5 will not count against the 3 days of Rule 30(b)(6)
2 depositions provided for pursuant to the Amended Pretrial Scheduling Order (Dkt.
3 117).

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

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15 IT IS SO ORDERED.

16 Dated: _____
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20 Honorable Robert N. Block
21 United States Magistrate Judge
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