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16 **UNITED STATES DISTRICT COURT**
17 **CENTRAL DISTRICT OF CALIFORNIA**

18 JOYCE WALKER, KIM BRUCE
19 HOWLETT, and MURIEL
20 SPOONER, on behalf of themselves
21 and all others similarly situated,
22
23 Plaintiffs,

24 v.

25 LIFE INSURANCE COMPANY OF
26 THE SOUTHWEST, a Texas
27 corporation,
28 Defendant.

CLASS ACTION

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

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

**JOINT MEMORANDUM IN
SUPPORT OF PROPOSED FIFTH
AMENDED PRETRIAL
SCHEDULING ORDER**

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1 Pursuant to the Court's June 20, 2013 Orders Denying Plaintiffs' and LSW's
2 Proposed Fifth Amended Pretrial Scheduling Orders, the parties met and conferred
3 concerning a proposed pretrial schedule and reached agreement on the Proposed
4 Fifth Amended Pretrial Scheduling Order filed concurrently herewith. This
5 memorandum provides a brief explanation of the deadlines proposed by the parties,
6 including an explanation of how they differ from the comparable deadlines set
7 forth in the Fourth Amended Pretrial Scheduling Order.

8 (a) Deadline for participating in mediation. The parties have agreed to
9 commence mediation by no later than October 1, 2013.

10 (b) Close of non-expert fact discovery and production end date. The
11 parties have agreed that non-expert fact discovery will close on December 6, 2013,
12 and that pursuant to the Trial Order, all non-expert fact depositions must
13 commence by no later than November 29, 2013, five days before the close of non-
14 expert fact discovery. Whereas in the Fourth Amended Pretrial Scheduling Order
15 (and in prior scheduling orders) the deadline for non-expert fact discovery was set
16 to take place 11 weeks before the trial date, in the Proposed Fifth Amended Pretrial
17 Scheduling Order, the close of non-expert fact discovery has been accelerated to
18 take place approximately 30 weeks before the trial date. In addition, the December
19 6, 2013 deadline allows the parties the flexibility to defer some or all depositions
20 until after mediation.

21 Further, notwithstanding Magistrate Judge Block's December 14, 2012 order
22 (Dkt. 365) that the production end date (that is, the date as of which any responsive
23 documents must be produced) shall be 60 days before the operative close of non-
24 expert fact discovery, the parties have agreed that the production end date shall be
25 August 15, 2013 (113 days, or approximately 16 weeks, before the close of non-
26 expert fact discovery), and that any supplemental productions shall begin no later
27 than October 1, 2013 and be completed no later than November 1, 2013. These
28 deadlines allow LSW a sufficient period of time in which to review documents for

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1 supplemental production, and allow Plaintiffs a sufficient period of time in which
2 to review LSW's production in advance of the deadline for depositions and in
3 connection with ongoing expert-related work before expert disclosures will be
4 due.¹

5 (c) Mailing of class notice. The parties have agreed that notice to the
6 class shall be sent by no later than November 1, 2013. The parties believe that this
7 deadline will conserve resources and maximize judicial efficiency, including
8 because additional supplementation of discovery may be necessary in order to
9 generate a final policyholder list, and because it will accommodate the
10 contemplated mediation deadline.

11 (d) Expert discovery. The deadline for expert discovery and the
12 corresponding deadlines for expert disclosures have been extended slightly in the
13 proposed Fifth Amended Pretrial Scheduling Order for two reasons. First, the date
14 by which initial expert disclosures must be made (January 13, 2014) has been
15 extended to occur after the close of fact discovery so that the parties can obtain all
16 necessary discovery relevant to their expert work sufficiently in advance of the
17 time that initial expert disclosures must be made. Second, the parties agreed to a
18 January 13, 2014 deadline for initial expert disclosures in order to accommodate
19 expert scheduling conflicts and general scheduling conflicts surrounding the
20 Christmas and New Year's holidays. The remaining deadlines pertaining to expert
21 disclosures are substantially the same as in prior scheduling orders.

22 (e) Summary judgment motions. The parties had previously agreed to a
23 60-day notice period for any motion for summary judgment that may be filed. The
24

25 ¹ As set forth in the Proposed Fifth Amended Pretrial Scheduling Order filed
26 concurrently herewith, the parties have agreed that if the Court extends the date set
27 for the close of fact discovery for any reason, then, absent contrary order or
28 agreement of the parties, the production end date shall revert to 60 days prior to the
operative close of fact discovery, without prejudice to LSW's right to seek
modification of that order for good cause shown.

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1 parties have shortened this period to 53 days, with 25 days for any opposition
2 papers to be filed, and 14 days for any reply papers to be filed.

3 Additionally, the parties have agreed to March 20, 2014 as the deadline to
4 file any summary judgment motions, which gives the parties 10 days following the
5 close of expert discovery (March 10, 2014) to make any summary judgment
6 motions. Since any summary judgment motion must be heard no later than the last
7 date for hearing motions, the proposed last date for hearing motions has been set as
8 May 12, 2014 – 53 days after March 20, 2014.

9 (f) Trial date and remaining pretrial deadlines. The remaining pretrial
10 deadlines – such as the last date for hearing motions, the deadline for motions *in*
11 *limine*, and the pretrial conference date, and so forth – have been extended in
12 accordance with the presumptive deadlines set by the Court and the Local Rules
13 and in accordance with prior scheduling orders in this case. For instance, since the
14 proposed last date for hearing motions (other than motions *in limine*) is May 12,
15 2014, the trial date has been set as June 30, 2014 – seven weeks after the last date
16 for hearing motions in accordance with the Court’s presumptive pretrial schedule
17 and the prior scheduling orders in this case.

18
19 DATED: July 1, 2013

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23 By: /s/ Charles N. Freiberg
Charles N. Freiberg

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