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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

C. P., by and through his parents, Patricia Pritchard and Nolle Pritchard, individually and on behalf of others similarly situated; and PATRICIA PRITCHARD,

Plaintiffs,

v.

BLUE CROSS BLUE SHIELD OF ILLINOIS,

Defendants.

CASE NO. 3:20-cv-06145-RJB

ORDER ON STIPULATED MOTION

This matter comes before the Court on the parties' Stipulated Motion in Response to Order Staying Case (Dkt. 171). Dkt. 172. The Court has reviewed the motion and the remaining file.

This case was stayed pending a decision in *Wit v. United Behavioral Health*, U.S. Court of Appeals for the Ninth Circuit case number 20-17636. On August 22, 2023, the Ninth Circuit granted a petition for panel rehearing, vacated a prior opinion, replaced it with a new opinion, and denied as moot a petition for rehearing en banc. *Id.* Dkt. 150. The opinion provided that

1 “[s]ubquent petitions for rehearing or rehearing en banc, are permissible.” *Id.* at 8. Pursuant to
2 Fed. R. App. P. 35(c) and 40(a)(1), the deadline to file a petition for rehearing or rehearing en
3 banc was September 5, 2023. The mandate has not issued in that case.

4 In the pending motion, the parties propose that:

5 (1) the parties file supplemental briefing by September 22, 2023 regarding the effect of
6 *Wit* on this case; and

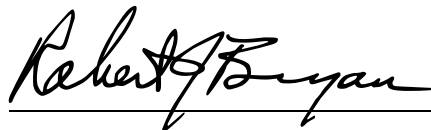
7 (2) the Plaintiffs’ Motion for Classwide Declaratory and Permanent Injunctive Relief and
8 Award of Individual Nominal Damages to Named Plaintiffs (Dkt. 153) and Defendant Blue
9 Cross Blue Shield of Illinois’s Motion to Decertify the Class (Dkt. 156) be renoted to October
10 20, 2023.

11 At this point, it appears that the parties’ motion (Dkt. 172) should be granted. If the
12 Ninth Circuit Court of Appeals takes additional action in the *Wit* case (other than issuance of a
13 mandate or other administrative action) the undersigned may reconsider this briefing schedule.
14 Parties should inform the Court when the mandate in *Wit* is issued.

15 **IT IS SO ORDERED.**

16 The Clerk is directed to send uncertified copies of this Order to all counsel of record and
17 to any party appearing pro se at said party’s last known address.

18 Dated this 6th day of September, 2023.

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21 ROBERT J. BRYAN
22 United States District Judge
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