

1 EDMUND G. BROWN JR.
 Attorney General of the State of California
 2 PAMELA J. HOLMES
 Supervising Deputy Attorney General
 3 DOUG KNOLL, (State Bar No.077040)
 Deputy Attorney General
 4 BENJAMIN BARNOUW (State Bar No. 168581)
 Deputy Attorney General
 5 300 South Spring Street, Suite 1702
 Los Angeles, CA 90013
 6 Telephone: (213) 897-6404
 Fax: (213) 897-2810
 7 Email: Doug. Knoll@doj.ca.gov

8 Attorneys for Defendants Pat L. Vazquez, Matthew
 Palmer, Curtiss Lawless, David Hicks, Lorlean
 9 Drugich, Brandon Short, Bernard Ramos, Remijio
 Paredes, Edward Montanio, Levi Logan, Anthony
 10 Ayala, George Gutierrez, Lee Miller, Edmond
 Cooper, Kevin Crouch, Tony Gibson, Bruce Gladden,
 11 Pearl Goetchius-Riley, Jose Gamez, Julie Gibbons,
 David Guerzon, Javier Herrera, Thomas Hunter,
 12 Clifford Johnson, Lydia Martinez, Mark Miranda,
 Kelly Phillips, Paul Turpin, Edward Welch, Jeffrey
 13 Williams, Terrance Yoder and Michael Songer

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 15 IN THE UNITED STATES DISTRICT COURT
 16 FOR THE EASTERN DISTRICT OF CALIFORNIA
 17 FRESNO DIVISION

<p>18 DANIEL PROVENCIO, JR., personally and as 19 successor in interest to DANIEL PROVENCIO, 20 deceased, by his guardian ad litem, Maria Lucero, et al.,</p> <p>21 Plaintiffs,</p> <p>22 v.</p> <p>23 PATRICIA L. VAZQUEZ, et al.,</p> <p>24 Defendants.</p>

1:07-CV-00069-AWI-BAK GSA
**JOINT STIPULATION AND
 ORDER VACATING TRIAL
 DATE AND REFERRING
 ACTION TO THE
 MAGISTRATE JUDGE FOR
 A SCHEDULING
 CONFERENCE**

25
 26 WHEREAS:

27 (1) The Court has pending before it two summary judgment motions brought by the
 28 defendants on March 13, 2009 and submitted on May 4, 2009;

1 (2) On July 1, 2009 the Court vacated the original Pretrial Conference date of July 10, 2009;

2 (3) The parties have been unable to meaningfully prepare for trial in the absence of rulings
3 on the pending summary judgment motions;

4 (4) The Court, in a ruling dated July 29, 2009, granted plaintiffs twenty days in which to
5 bring a Motion for Leave to File a Fourth Amended Complaint, which motion plaintiffs are
6 presently preparing, and which motion defendants will oppose;

7 (5) Following the Court's July 29, 2009 ruling, defendant Michael Songer filed his Answer
8 to
9 Third Amended Complaint on July 31, 2009;

10 (6) The parties have met and conferred, through their respective counsel, and have
11 determined that, in light of the above circumstances, this case will be unable to proceed to trial as
12 presently scheduled;

13 Now, therefore, the parties stipulate as follows, subject to approval by the Court:

14 (1) The trial date of September 1, 2009 may be vacated, to be reset by the Court; and

15 (2) The Pretrial Conference, previously vacated by the Court, may be reset by the Court
16 consistent with the reset trial date.

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18 McNICHOLAS & McNICHOLAS

19
20 August 6, 2009

21 By: /s/ John P. McNicholas
22 JOHN P. McMICHOLAS, Attorney
23 for Plaintiff Nancy Mendoza

24 August 6, 2009

25 By: /s/ Michael R. Mitchell
26 MICHAEL R. MITCHELL, Attorney
27 for Plaintiff Daniel Provencio, Jr.

28 GORDON, EDELSTEIN, KREPACK,
GRANT, FELTON & GOLDSTEIN

August 6, 2009

By: /s/ Joshua M. Merliss
JOSHUA M. MERLISS, Attorney

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for Plaintiff Johnny G. Provencio
LeBEAU-THELEN, LLP

August 6, 2009

By: /s/ J. Nile Kinney
J. Nile Kinney, Attorney for
Defendant Matthew Adams

EDMUND G. BROWN JR.
Attorney General of the State of
California
PAMELA J. HOLMES, Supervising
Deputy Attorney General
DOUG KNOLL
Deputy Attorney General
BENJAMIN BARNOUW
Deputy Attorney General

August 6, 2009

By: /s/ Doug Knoll
DOUG KNOLL
Deputy Attorney General
Attorneys for All Defendants Except
Matthew Adams

ORDER

The Court has read and considered the stipulation of the parties and, good cause appearing therefor, **IT IS HEREBY ORDERED THAT:**

- (1) The September 1, 2009 trial date is VACATED; and
- (2) The action is referred to the Magistrate Judge to hold a scheduling conference.

IT IS SO ORDERED.

Dated: August 5, 2009

/s/ Anthony W. Ishii
CHIEF UNITED STATES DISTRICT JUDGE