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10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE EASTERN DISTRICT OF CALIFORNIA
12 FRESNO DIVISION

13 **DANIEL PROVENCIO, JR., personally and**
14 **as successor in interest to DANIEL**
15 **PROVENCIO, deceased, by his guardian ad**
litem, Maria Lucero, et al.,

16 Plaintiffs,

17 v.

18 **PATRICIA L. VAZQUEZ, et al.,**

19 Defendants.
20

1:07-CV-00069-AWI-JLT

**JOINT STIPULATION AND PROPOSED
ORDER RESCHEDULING PRETRIAL
CONFERENCE AND TRIAL DATE**

Courtroom: No. 2

Judge: Hon. Anthony W. Ishii

Trial Date: August 17, 2010

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WHEREAS:

(1) Trial is currently scheduled to begin on August 17, 2010;

(2) The Pretrial Conference is scheduled for June 18, 2010;

(3) All Defendants have filed motions for summary judgment;

(4) On May 13, 2010, U.S. District Court Judge Anthony W. Ishii referred the motions for summary judgment to U.S. Magistrate Judge Jennifer L. Thurston pursuant to 28 U.S.C. §636(b)(1)(B) and Local Rule 302 for the entry for Findings and Recommendations;

(5) On June 9, 2010, a hearing was held on defendants’ Motions for Summary Judgment before Magistrate Judge Thurston, and Magistrate Judge Thurston took the motions under submission;

(6) Pursuant to U.S. District Court, Eastern District of California Local Rule 304(b) and (d), and 28 U.S.C. §636(b)(1)(B), any party who wishes to object to the Findings and Recommendations to be issued by Magistrate Judge Thurston concerning defendants’ Motions for Summary Judgment may file an Objection within fourteen (14) days of being served with the Findings and Recommendations, and any party who wishes to respond to an Objection may do so with fourteen (14) days of being served with an Objection;

(7) Given the foregoing circumstances, the parties have been unable to meaningfully prepare for trial in the absence of rulings on the pending motions for summary judgment, and are unable to prepare and file Joint Pretrial Statement by the current deadline of June 11, 2010; and

(8) The parties have met and conferred, through their respective counsel, and have determined that, in light of the above circumstances, the case will be unable to proceed to trial as presently scheduled.

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

(1) The Pretrial Conference, currently set for June 18, 2010, may be vacated, to be reset for August 17, 2010; and

(2) The Trial date, currently set for August 17, 2010, may be vacated, to be reset for October 26, 2010.

Dated: June 10, 2010

EDMUND G. BROWN JR.
Attorney General of California
PAMELA J. HOLMES
Supervising Deputy Attorney General
DOUG KNOLL
Deputy Attorney General

/s/ Benjamin Barnouw
BENJAMIN BARNOUW
Deputy Attorney General
*Attorneys for Defendants Pat L. Vazquez,
Matthew Palmer, David Hicks, Lorlean
Drugich, Remijio Paredes, and Michael
Songer*

Dated: June 11, 2010

MICHAEL R. MITCHELL, ESQ.

/s/ Michael R. Mitchell
MICHAEL R. MITCHELL, ESQ.
Attorney for Plaintiff Daniel Provencio, Jr.

Dated: June 11, 2010

MCNICHOLAS & MCNICHOLAS

/s/ John P. McNicholas
JOHN P. MCNICHOLAS, ESQ.
Attorneys for Plaintiff Nancy Mendoza

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Dated: June 10, 2010

Dated: June 11, 2010

GORDON, EDELSTEIN, KREPACK, GRANT,
FELTON & GOLDSTEIN

 /s/ Joshua M. Merliss
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Attorneys for Plaintiff Johnny G. Provencio

LEBEAU-THELEN, LLP

 /s/ J. Nile Kinney
J. NILE KINNEY, ESQ.
Attorneys for Defendant Matthew Adams

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ORDER

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

(1) The June 18, 2010 Pretrial Conference is VACATED, and is re-set for August 17, 2010, at 8:30 a.m., before the Honorable Anthony W. Ishii, United States District Judge, in Courtroom 2, United States Courthouse, 2500 Tulare Street, Fresno, California, 93721; and

(2) The August 17, 2010 trial date is VACATED, and is re-set for October 26, 2010, at 8:30 a.m., before the Honorable Anthony W. Ishii, United States District Judge, in Courtroom 2, United States Courthouse, 2500 Tulare Street, Fresno, California, 93721.

IT IS SO ORDERED.

Dated: June 14, 2010

/s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE