1 2 3 4 5		57141 LP F MADERA, RICHARD ACKERMAN, JAMES ADKINS,			
6 7	BRIAN CUNNINGS, KARL HANCOCK, CHRIS SWANSON and JACOB TALLMON				
8	UNITED STATES DISTRICT COURT				
9 10	EASTERN DISTRICT OF CALIFORNIA, FRESNO				
10	JAMES SANFORD POBURSKY and WANDA POBURSKY,) CASE NO. 1:07-CV–00611 AWI DLB)			
12	Plaintiffs,)) DEFENDANTS' SECOND EX PARTE			
13	VS.) APPLICATION FOR ORDER MODIFYING) AMENDED SCHEDULING ORDER (DOC.			
14	MADERA COUNTY, et al.,) 185)			
15 16	Defendants.				
10))			
18	Defendants, COUNTY OF MAD	DERA, RICHARD ACKERMAN, JAMES ADKINS, BRIAN			
19	CUNNINGS, KARL HANCOCK, CHRIS SWANSON, and JACOB TALLMON, hereby submit the				
20	following exparte application for an order modifying the Order Amending Scheduling Order ("Amended				
21	Scheduling Order") (Doc. 185).				
22	On October 4, 2010, Magistrate Judge Dennis Beck issued findings and recommendations				
23	granting defendants' motion to dismiss with prejudice (Doc. 219). Plaintiffs filed objections to the				
24	findings and recommendations with the Court on November 9, 2010 (Doc. 222) and on November 16,				
25	2010 Defendants filed a reply to Plaintiffs' objections. (Doc. 223). In light of the fact that the Court has				
26	not yet adopted or rejected the findings and recommendations of the magistrate, the COUNTY request				
27	modification of the operative scheduling order as follows:				
28	///				

Exparte Application for Order Modifying Amended Scheduling Order

1		Old Date	New Date		
2	Non-Expert Discovery	December 3, 2010	January 3, 2011		
3	Expert Witness Disclosure	December 17, 2010	January 17, 2011		
4	Expert Discovery	January 14, 2011	February 14, 2011		
5	Non-dispositive Motion Filing	January 21, 2011	February 21, 2011		
6	Dispositive Motion Filing	January 28, 2011	February 28, 2011		
7					
8		Respectfully submitted,			
9 10	DATED: December 3, 2010	WEAKLEY, ARENDT & N	McGUIRE, LLP		
11	By:	/s/ James J. Arendt			
12		James J. Arendt Attorney for Defendants	. 1		
13		COUNTY OF MADERA, e	et al.		
14					
15	DECLADATION OF LAMES LADENDT				
16	DECLARATION OF JAMES J. ARENDT				
17	I, James J. Arendt, declare as follows:				
18	1. I am an attorney at law, d	uly licensed to practice befor	re the courts in the State of		
19	California and the United States District Court for the Eastern District of California. I am a partner with				
20	the law firm of Weakley, Arendt & McGuire, LLP, the attorneys of record for defendants, COUNTY				
21	OF MADERA, RICHARD ACKERMAN, JAMES ADKINS, BRIAN CUNNINGS, KARL				
22	HANCOCK, CHRIS SWANSON, and JACOB TALLMON. As such, I have personal knowledge of				
23	the matters set forth herein, except those ma	atters stated on information an	d belief, and would so testify.		
24	2. This declaration is made in	n support of defendants' ex p	arte application for an order		
25	modifying the Order Amending Scheduling Order ("Amended Scheduling Order") (Doc. 185).				
26	3. Good cause exists for this re	equest due to fact that on Octo	ber 4, 2010, Magistrate Judge		
27	Dennis Beck issued findings and recommendations granting defendants' motion to dismiss with				
28	prejudice (Doc. 219). Plaintiffs filed object	tions to those findings and reco	ommendations with the Court		

1	and Defendants filed a brief in reply to Plaintiffs' objections on November 9, 2010 and November 16,			
2	2010 respectively. (Docs. 222-223). The Court has not yet issued a final ruling on that motion.			
3	4. Defendants believe that the proposed dates would provide adequate time for the Court			
4	to either adopt or reject the findings and recommendations while still leaving ample time to conduct			
5	necessary discovery and exchange expert disclosures. This request is made in good faith and with no			
6	improper purpose.			
7	I declare under penalty of perjury that the foregoing is true and correct, to the best of my			
8	knowledge, and that this declaration was executed on December 2, 2010, at Fresno, California.			
9	/s/ James J. Arendt			
10	/s/ James J. Arendt James J. Arendt			
11	<u>ORDER</u>			
12	Defendants' ex parte application for an order modifying the Order Amending Scheduling Order			
13	("Amended Scheduling Order") (Doc. 185) is granted in part. The dates set in the current scheduling			
14	order are vacated. The court will hold a scheduling conference to set the remaining deadlines after			
15	ruling on the pending findings and recommendations.			
16				
17	IT IS SO ORDERED.			
18	Dated:December 7, 2010/s/ Dennis L. BeckUNITED STATES MAGISTRATE JUDGE			
19				
20				
21				
22				
23				
24				
25				
26				
27				
28				
	Exparte Application for Order			

I