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8 **UNITED STATES DISTRICT COURT**
9 **EASTERN DISTRICT OF CALIFORNIA, FRESNO**

10
11 JAMES SANFORD POBURSKY and) CASE NO. 1:07-CV-00611 AWI DLB
WANDA POBURSKY,)
12)
Plaintiffs,) **DEFENDANTS’ SECOND EX PARTE**
13) **APPLICATION FOR ORDER MODIFYING**
vs.) **AMENDED SCHEDULING ORDER (DOC.**
14) **185)**
MADERA COUNTY, et al.,)
15)
Defendants.)
16)
17)

18 Defendants, COUNTY OF MADERA, RICHARD ACKERMAN, JAMES ADKINS, BRIAN
19 CUNNINGS, KARL HANCOCK, CHRIS SWANSON, and JACOB TALLMON, hereby submit the
20 following ex parte 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:

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Exparte Application for Order
Modifying Amended Scheduling Order

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
10 /s/ James J. Arendt
James J. Arendt

11 **ORDER**

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. Beck
UNITED STATES MAGISTRATE JUDGE