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10 **Attorneys for Plaintiff**
11 **J & J Sports Productions, Inc.**

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17 **UNITED STATES DISTRICT COURT**
18 **EASTERN DISTRICT OF CALIFORNIA**
19 **FRESNO DIVISION**

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21 **J & J SPORTS PRODUCTIONS, INC.,**

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23 **CASE NO. 1:10-cv-00543-LJO-SKO**

24 **Plaintiff,**

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26 **PLAINTIFF'S *EX PARTE***
27 **APPLICATION FOR AN ORDER**
28 **CONTINUING SCHEDULING**
29 **CONFERENCE; AND ORDER**
30 **(Proposed)**

31 **v.**

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33 **DANIEL DELGADILLO, et al.**

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35 **Defendants.**

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38 **TO THE HONORABLE SHEILA K. OBERTO, THE DEFENDANTS AND THEIR**
39 **ATTORNEY/S OF RECORD:**

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41 Plaintiff J & J Sports Productions, Inc., hereby applies *ex parte* for an order continuing the
42 Scheduling Conference presently set for Tuesday, June 29, 2010 at 9:45 AM. As set forth below
43 Plaintiff respectfully requests that the Court continues the Scheduling Conference to a new date
44 approximately Thirty (30) to Forty-Five (45) days forward.

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46 The request for the brief continuance is necessitated by the fact that Plaintiff has not yet
47 perfected service of the initiating suit papers upon the Defendants Daniel Delgadillo and Francisco
48 R. Martin, individually and d/b/a Fiesta Club. As a result, Plaintiff's counsel has not conferred with
49 the defendants concerning the claims, discovery, settlement, or any of the other pertinent issues
50 involving the case itself or the preparation of a Joint Status Report.

1 **WHEREFORE**, Plaintiff respectfully requests that this Honorable Court continue the
2 Scheduling Conference, presently scheduled for Tuesday, June 29, 2010 at 9:45 AM to a new date
3 approximately Thirty (30) to Forty-Five (45) days forward.

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6 Respectfully submitted,

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8 Dated: June 21, 2010

9 */s/ Thomas P. Riley*
10 **LAW OFFICES OF THOMAS P. RILEY, P.C.**
11 By: Thomas P. Riley
12 Attorneys for Plaintiff
13 J & J Sports Productions, Inc.

14 **ORDER**

15 On June 21, 2010, Plaintiff filed a request that the Scheduling Conference in this matter be
16 continued because Plaintiff has not yet served the complaint. Plaintiff is reminded that, pursuant to
17 Fed. R. Civ. Pro. 4(m), “if a defendant is not served within 120 days after the complaint is filed, the
18 court – on motion or on its own after notice to the plaintiff – must dismiss the action without
19 prejudice.” The Court notes that the complaint was filed on March 26, 2010, and asks that Plaintiff
20 diligently pursue service of the complaint.

21 ACCORDINGLY, IT IS HEREBY ORDERED THAT:

22 1. The Scheduling Conference currently set for June 29, 2010, is VACATED; and
23 2. The Scheduling Conference is hereby RESET to August 3, 2010, at 9:15 a.m.

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25 IT IS SO ORDERED.

26 Dated: June 24, 2010

27 */s/ Sheila K. Oberto*
28 UNITED STATES MAGISTRATE JUDGE