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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

RACHEL PRESCOTT, et al.,  
Plaintiffs,  
v.  
COUNTY OF STANISLAUS, et al.,  
Defendants.

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) 1:10-cv-0592 OWW JLT  
)  
) SCHEDULING CONFERENCE ORDER  
)  
) Discovery Cut-Off: 10/1/11  
)  
) Non-Dispositive Motion  
) Filing Deadline: 10/14/11  
)  
) Non-Dispositive Motion  
) Hearing Date: 11/18/11  
) 9:00 Bakersfield  
  
) Dispositive Motion Filing  
) Deadline: 11/14/11  
  
) Dispositive Motion Hearing  
) Date: 12/12/11 10:00 Ctrm.  
) 3  
  
) Settlement Conference Date:  
) 8/4/11 10:00 Bakersfield  
  
) Pre-Trial Conference Date:  
) 1/23/12 11:00 Ctrm. 3  
  
) Trial Date: 3/6/12 9:00  
) Ctrm. 3 (JT-10 days)

I. Date of Scheduling Conference.  
November 4, 2010.

II. Appearances Of Counsel.  
Steven R. Yourke, Esq., appeared on behalf of Plaintiffs.

1 Porter Scott by Terence J. Cassidy, Esq., and Ashley M.  
2 Wisniewski, Esq., appeared on behalf of Defendants County of  
3 Stanislaus and Sheriff Adam Christianson, in his official  
4 capacity.

5 Trimble, Sherinian and Varanini by Jerome M. Varanini, Esq.,  
6 appeared on behalf of Defendant California Forensic Medical  
7 Group, Inc.

8 III. Summary of Pleadings.

9 1. This action arises from the death of Craig Prescott, a  
10 severely mentally ill man, in the Stanislaus County Jail on April  
11 13, 2008. Plaintiffs sue for violation of civil rights pursuant  
12 to 42 U.S.C. § 1983 and for wrongful death per California  
13 statute. Plaintiffs are the wife, mother and six minor children  
14 of Decedent. Plaintiffs claim that Decedent's death was caused  
15 by the failure of Defendants to provide adequately for his  
16 psychiatric needs while in jail and their use of unreasonable  
17 force against him while placing him in the safety cell. Decedent  
18 died in the jail's safety cell following his forcible extraction  
19 from a jail cell by jail deputies who used tasers and clubs on  
20 him in a brutal effort to subdue him. Plaintiffs seek  
21 compensatory and punitive damages, attorney's fees and costs.  
22 All parties have demanded a jury trial.

23 2. Plaintiffs filed their Complaint against Defendants in  
24 this Court on April 6, 2010. This action arises out of the death  
25 of Craig Prescott. Plaintiffs, the deceased's widow, mother, and  
26 six minor children, contend that Mr. Prescott's death was caused  
27 by Defendants. Plaintiffs assert claims for alleged violations  
28 of the constitution pursuant to 42 U.S.C. § 1983, as well as

1 state law claims for wrongful death. Plaintiffs seek  
2 compensatory damages, punitive damages and fees and costs of  
3 suit. Defendants, and each of them, deny these allegations, deny  
4 any and all liability, and assert various affirmative defenses.  
5 All parties have demanded a jury trial.

6 IV. Orders Re Amendments To Pleadings.

7 1. The parties agree that Plaintiff shall join as yet  
8 unidentified parties on or before March 4, 2011.

9 2. The parties further agree that, following the amendment  
10 date, that the DOE Defendants shall be dismissed without  
11 prejudice. Further joinder of parties or claims shall be  
12 governed by the provisions of Fed. R. Civ. P. Rule 15 and Rule  
13 16.

14 V. Factual Summary.

15 A. Admitted Facts Which Are Deemed Proven Without Further  
16 Proceedings.

17 1. Plaintiffs are the alleged wife, mother, and six  
18 minor children of Decedent and claim standing to pursue this  
19 action based on their successor rights under the law of  
20 California.

21 2. At the time of the incident, Plaintiff's Decedent  
22 was lawfully detained and in the custody of the County Jail of  
23 Stanislaus County.

24 3. The jail officers who participated in the incident  
25 were, at all times, peace officers or correctional officers under  
26 the law of the State of California, were employees of the County  
27 of Stanislaus, were acting in the course and scope of their  
28 employment, and under color of state law.

1           4. Defendant California Forensic Medical Group, Inc.,  
2 is a corporation formed and existing under the laws of the State  
3 of California.

4           5. At all times applicable, Defendant CFMG had a  
5 contract with the County of Stanislaus to provide medical  
6 services.

7           6. At the time of the incident, Plaintiffs' Decedent  
8 was in custody for alleged violation of a restraining order  
9 preventing contact between himself and his family.

10           7. The claims arise out of an extraction of  
11 Plaintiffs' Decedent from the jail cell.

12           B. Contested Facts.

13           1. All remaining facts are disputed.

14 VI. Legal Issues.

15           A. Uncontested.

16           1. Jurisdiction exists under 28 U.S.C. § 1331.  
17 Supplemental jurisdiction is invoked under 28 U.S.C. § 1367.  
18 Jurisdiction also exists under 42 U.S.C. § 1983.

19           2. Venue is proper under 28 U.S.C. § 1391(b)(2).

20           3. The parties agree that as to supplemental claims,  
21 the substantive law of the State of California provides the rule  
22 of decision.

23           B. Contested.

24           1. All remaining legal issues are disputed.

25 VII. Consent to Magistrate Judge Jurisdiction.

26           1. The parties have not consented to transfer the  
27 case to the Magistrate Judge for all purposes, including trial.

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1 VIII. Corporate Identification Statement.

2 1. Any nongovernmental corporate party to any action in  
3 this court shall file a statement identifying all its parent  
4 corporations and listing any entity that owns 10% or more of the  
5 party's equity securities. A party shall file the statement with  
6 its initial pleading filed in this court and shall supplement the  
7 statement within a reasonable time of any change in the  
8 information.

9 IX. Discovery Plan and Cut-Off Date.

10 1. The parties agree that initial disclosures shall be  
11 completed by November 30, 2010.

12 2. The parties are ordered to complete all non-expert  
13 discovery on or before July 30, 2011.

14 3. The parties are directed to disclose all expert  
15 witnesses, in writing, on or before August 30, 2011. Any  
16 rebuttal or supplemental expert disclosures will be made on or  
17 before October 1, 2011. The parties will comply with the  
18 provisions of Federal Rule of Civil Procedure 26(a)(2) regarding  
19 their expert designations. Local Rule 16-240(a) notwithstanding,  
20 the written designation of experts shall be made pursuant to F.  
21 R. Civ. P. Rule 26(a)(2), (A) and (B) and shall include all  
22 information required thereunder. Failure to designate experts in  
23 compliance with this order may result in the Court excluding the  
24 testimony or other evidence offered through such experts that are  
25 not disclosed pursuant to this order.

26 4. The parties are ordered to complete all discovery,  
27 including experts, on or before October 1, 2011.

28 5. The provisions of F. R. Civ. P. 26(b)(4) shall

1 apply to all discovery relating to experts and their opinions.  
2 Experts may be fully prepared to be examined on all subjects and  
3 opinions included in the designation. Failure to comply will  
4 result in the imposition of sanctions.

5 X. Pre-Trial Motion Schedule.

6 1. All Non-Dispositive Pre-Trial Motions, including any  
7 discovery motions, will be filed on or before October 14, 2011,  
8 and heard on November 18, 2011, at 9:00 a.m. before Magistrate  
9 Judge Jennifer L. Thurston in her courtroom located at 1300 18th  
10 Street, Suite A, Bakersfield, California.

11 2. In scheduling such motions, the Magistrate  
12 Judge may grant applications for an order shortening time  
13 pursuant to Local Rule 142(d). However, if counsel does not  
14 obtain an order shortening time, the notice of motion must comply  
15 with Local Rule 251.

16 3. All Dispositive Pre-Trial Motions are to be  
17 filed no later than November 14, 2011, and will be heard on  
18 December 12, 2011, at 10:00 a.m. before the Honorable Oliver W.  
19 Wanger, United States District Judge, in Courtroom 3, 7th Floor.  
20 In scheduling such motions, counsel shall comply with Local Rule  
21 230.

22 XI. Pre-Trial Conference Date.

23 1. January 23, 2012, at 11:00 a.m. in Courtroom 3, 7th  
24 Floor, before the Honorable Oliver W. Wanger, United States  
25 District Judge.

26 2. The parties are ordered to file a Joint Pre-  
27 Trial Statement pursuant to Local Rule 281(a)(2).

28 3. Counsel's attention is directed to Rules 281

1 and 282 of the Local Rules of Practice for the Eastern District  
2 of California, as to the obligations of counsel in preparing for  
3 the pre-trial conference. The Court will insist upon strict  
4 compliance with those rules.

5 XII. Motions - Hard Copy.

6 1. The parties shall submit one (1) courtesy paper copy to  
7 the Court of any motions filed. Exhibits shall be marked with  
8 protruding numbered or lettered tabs so that the Court can easily  
9 identify such exhibits.

10 XIII. Trial Date.

11 1. March 6, 2012, at the hour of 9:00 a.m. in Courtroom 3,  
12 7th Floor, before the Honorable Oliver W. Wanger, United States  
13 District Judge.

14 2. This is a jury trial.

15 3. Counsels' Estimate Of Trial Time:

16 a. Seven to ten days.

17 4. Counsels' attention is directed to Local Rules  
18 of Practice for the Eastern District of California, Rule 285.

19 XIV. Settlement Conference.

20 1. A Settlement Conference is scheduled for August 4,  
21 2011, at 10:00 a.m. before the Honorable Jennifer L. Thurston,  
22 United States Magistrate Judge, whose chambers is located at 1200  
23 Truxtun Avenue, Suite 120, Bakersfield, California.

24 2. Unless otherwise permitted in advance by the  
25 Court, the attorneys who will try the case shall appear at the  
26 Settlement Conference with the parties and the person or persons  
27 having full authority to negotiate and settle the case on any  
28 terms at the conference.

1           3.    Permission for a party [not attorney] to attend  
2 by telephone may be granted upon request, by letter, with a copy  
3 to the other parties, if the party [not attorney] lives and works  
4 outside the Eastern District of California, and attendance in  
5 person would constitute a hardship. If telephone attendance is  
6 allowed, the party must be immediately available throughout the  
7 conference until excused regardless of time zone differences.  
8 Any other special arrangements desired in cases where settlement  
9 authority rests with a governing body, shall also be proposed in  
10 advance by letter copied to all other parties.

11           4.    Confidential Settlement Conference Statement.  
12 At least five (5) days prior to the Settlement Conference the  
13 parties shall submit, directly to the Magistrate Judge's  
14 chambers, a confidential settlement conference statement. The  
15 statement should not be filed with the Clerk of the Court nor  
16 served on any other party. Each statement shall be clearly  
17 marked "confidential" with the date and time of the Settlement  
18 Conference indicated prominently thereon. Counsel are urged to  
19 request the return of their statements if settlement is not  
20 achieved and if such a request is not made the Court will dispose  
21 of the statement.

22           5.    The Confidential Settlement Conference  
23 Statement shall include the following:  
24           a.    A brief statement of the facts of the  
25 case.  
26           b.    A brief statement of the claims and  
27 defenses, i.e., statutory or other grounds upon which the claims  
28 are founded; a forthright evaluation of the parties' likelihood



1 of prevailing on the claims and defenses; and a description of  
2 the major issues in dispute.

3 c. A summary of the proceedings to date.

4 d. An estimate of the cost and time to be  
5 expended for further discovery, pre-trial and trial.

6 e. The relief sought.

7 f. The parties' position on settlement,  
8 including present demands and offers and a history of past  
9 settlement discussions, offers and demands.

10 XV. Request For Bifurcation, Appointment Of Special Master,  
11 Or Other Techniques To Shorten Trial.

12 1. None.

13 XVI. Related Matters Pending.

14 1. There are no related matters.

15 XVII. Compliance With Federal Procedure.

16 1. The Court requires compliance with the Federal  
17 Rules of Civil Procedure and the Local Rules of Practice for the  
18 Eastern District of California. To aid the court in the  
19 efficient administration of this case, all counsel are directed  
20 to familiarize themselves with the Federal Rules of Civil  
21 Procedure and the Local Rules of Practice of the Eastern District  
22 of California, and keep abreast of any amendments thereto.

23 XVIII. Effect Of This Order.

24 1. The foregoing order represents the best  
25 estimate of the court and counsel as to the agenda most suitable  
26 to bring this case to resolution. The trial date reserved is  
27 specifically reserved for this case. If the parties determine at  
28 any time that the schedule outlined in this order cannot be met,

1 counsel are ordered to notify the court immediately of that fact  
2 so that adjustments may be made, either by stipulation or by  
3 subsequent scheduling conference.

4 2. Stipulations extending the deadlines contained  
5 herein will not be considered unless they are accompanied by  
6 affidavits or declarations, and where appropriate attached  
7 exhibits, which establish good cause for granting the relief  
8 requested.

9 3. Failure to comply with this order may result in  
10 the imposition of sanctions.

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12 IT IS SO ORDERED.

13 Dated: November 4, 2010

/s/ Oliver W. Wanger  
UNITED STATES DISTRICT JUDGE

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