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15 Attorneys for: Defendants **CITY OF BAKERSFIELD, TIMOTHY BERCHTOLD**
16 And **JASON FELGENHAUER**

17 **UNITED STATES DISTRICT COURT**
18 **EASTERN DISTRICT OF CALIFORNIA**

19 **CYNTHIA SOLERO, individually and as) Case No. 1:12-CV-01791-LJO-JLT**
20 **Successor in Interest of VINCENT)**
21 **MATTHEW YZAGUIRRE, DECEASED,) STIPULATION TO MODIFY**
22 **) SCHEDULING ORDER**
23 **Plaintiffs,) AND ALLOWING THE PLAINTIFF**
24 **) TO FILE A THIRD AMENDED**
25 **vs.) COMPLAINT; ORDER THEREON**
26 **)**
27 **CITY OF BAKERSFIELD, TIMOTHY) (Doc. 21)**
28 **BERCHTOLD, JASON FELGENHAUER,)**
and DOES 1 through 10, inclusive,)
)
Defendants.)
)

1 Plaintiff CYNTHIA SOLTERO and defendants CITY OF BAKERSFIELD,
2 TIMOTHY BERCHTOLD, and JASON FELGENHAUER, by and through their counsel
3 of record, hereby stipulate and agree as follows:

4 STIPULATION

5 1. The parties STIPULATE and AGREE that the Court should enter an Order
6 amending the scheduling order in this case, such that the schedule be modified as
7 follows:

<u>Deadline/Hearing</u>	<u>Current Date</u>	<u>Requested Date</u>
Expert Witness Disclosures	---	09/02/14
Rebuttal Expert Witness Disclosures	---	09/16/14
Expert Discovery Cutoff	06/02/14	10/07/14
File Non-Dispositive Motions	---	10/22/14
Hear Non-Dispositive Motions	06/02/14	11/14/14
File Dispositive Motions	06/09/14	11/21/14
Hear Dispositive Motions	07/23/14	12/31/14
Mandatory Settlement Conference	08/07/14	01/20/15
Pretrial Conference	09/03/14	02/19/15
Trial	10/21/14	03/23/15

19 2. The parties STIPULATE and AGREE that the plaintiff may file a Third
20 Amended Complaint naming Robert Yzaguirre, the decedent's father, as a party to this
21 action so that any and all claims arising from the death of Matthew Vincent Yzaguirre
22 may be fully and finally adjudicated in a single action. A true and correct copy of the
23 plaintiff's Third Amended Complaint is attached hereto as Exhibit A.

24 GOOD CAUSE EXISTS TO MODIFY THE SCHEDULING CONFERENCE ORDER
25 AND TO PERMIT DEFENDANTS TO FILE A CROSS COMPLAINT

26 3. Good cause exists to modify the scheduling conference order and to permit
27 the plaintiff to file a Third Amended Complaint. The parties have agreed to stipulate to
28 the above terms because:

1 a. Plaintiff Cynthia Soltero seeks to recover damages as the result of the
2 death of her son, Vincent Matthew Yzaguirre.

3 b. Decedent Vincent Matthew Yzaguirre's father, Robert Yzaguirre, is
4 alive but was not previously named as a party in this lawsuit. It is believed that Mr.
5 Yzaguirre is currently incarcerated in Salinas Valley State Prison in Soledad, California.

6 c. Plaintiff wishes to file a Third Amended Complaint to name Mr.
7 Yzaguirre as a party so that all claims arising from the death of Vincent Matthew
8 Yzaguirre are fully and finally adjudicated in a single action as is contemplated by
9 California Code of Civil Procedure Section 377.60.

10 d. Plaintiff and defendants mediated this matter and reached a settlement
11 in principal but such settlement is contingent on it being a full and final adjudication of
12 all claims that could have been brought as a result of the death of Vincent Matthew
13 Yzaguirre. As a result, it is necessary to name Robert Yzaguirre as a party to ensure a
14 full and final adjudication of this matter.

15
16 Dated: June 5, 2014.

MARDEROSIAN, CERCONE & COHEN

17
18 /s/ Michael G. Marderosian

19 By: _____

20 Michael G. Marderosian,
21 Attorneys for Defendants
22 above-named.

23 Dated: June 5, 2014.

LAW OFFICES OF
DANIEL GIBALEVICH

24
25 /s/ Daniel A. Gibalevich

26 By: _____

27 Daniel A. Gibalevich,
28 Attorneys for Plaintiff

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ORDER

Good cause appearing, the Court **ORDERS**:

1. The stipulation for Plaintiff to file the third amended complaint which was attached to the stipulation as Exhibit A, is **GRANTED**. Plaintiff **SHALL** file the third amended complaint within three court days;

2. Defendants **SHALL** file their responsive pleading to the third amended complaint within 20 days after its filing;

3. The scheduling order is amended as follows:

- a. Expert witnesses **SHALL** be disclosed no later than 09/02/14;
- b. Rebuttal expert witnesses **SHALL** be disclosed no later than 09/16/14;
- c. All expert discovery **SHALL** be completed by 10/07/14;
- d. Non-dispositive motions **SHALL** be filed no later than 10/22/14 and heard no later than 11/14/14;
- e. Dispositive motions **SHALL** be filed no later than 11/21/14 and heard no later than 01/06/15;
- f. The settlement conference is reset on 01/20/15 at 9:30 a.m.;
- g. The pretrial conference is reset on 02/25/15 at 8:30 a.m.;
- h. The trial is reset on 04/21/15 at 8:30 a.m.;

4. **Within 90 days**, counsel **SHALL** file a joint report detailing the status of the settlement negotiations.

IT IS SO ORDERED.

Dated: June 6, 2014

/s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE