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8  
9 IN THE UNITED STATES DISTRICT COURT  
10 FOR THE EASTERN DISTRICT OF CALIFORNIA  
11 FRESNO DIVISION

12  
13 **YVONNE ARCURE, KEVIN COOK,**  
**JOSEPH FESSENDEN, LISA HUFF &**  
14 **KATHREN WOODSIDE,**

15 Plaintiffs,

16 v.

17 **CALIFORNIA DEPARTMENT OF**  
**DEVELOPMENTAL SERVICES,**  
18 **DEBORAH MEEKER, JEFFREY**  
19 **BRADLEY, SCOTT GARDNER,**  
**DOUGLAS LOEHNER, DAVID CORRAL,**  
20 **MICHAEL FLORES, and MARK**  
**RODRIGUEZ,**

21 Defendants.  
22

1:13-cv-00541-LJO-BAM

**STIPULATION TO WITHDRAW  
MOTIONS AND VACATE SCHEDULING  
CONFERENCE; TO REQUEST AN  
EARLY SETTLEMENT CONFERENCE;  
AND TO SET STATUS CONFERENCE**

Date: October 2, 2013  
Time: 9:00 a.m.  
Courtroom: 8  
Judge: The Honorable Lawrence J.  
O'Neill

Trial Date: TBA  
Action Filed: April 16, 2013

23 WHEREAS, Plaintiffs filed their complaint on April 16, 2013;

24 WHEREAS, Defendant Department of Developmental Services ("DDS") responded to  
25 Plaintiffs' complaint by filing motions to dismiss, strike, and for a more definite statement on  
26 June 6, 2013;

27 WHEREAS, Plaintiffs filed their first amended complaint on June 24, 2013;

28 / / /

1 WHEREAS, Plaintiffs and DDS filed a stipulation to continue the mandatory scheduling  
2 conference on June 28, 2013;

3 WHEREAS, this Court issued an order on July 3, 2013, continuing the mandatory  
4 scheduling conference until October 2, 2013;

5 WHEREAS, DDS responded to Plaintiffs' first amended complaint by filing motions to  
6 dismiss, strike, and sever on July 17, 2013;

7 WHEREAS, this Court issued a briefing schedule on DDS' motions on July 18, 2013, and  
8 ordered oppositions to be filed by August 2, 2013;

9 WHEREAS, Plaintiffs filed non-oppositions to certain motions on July 18, 2013, and  
10 stated that the parties may be stipulating to allow Plaintiffs to file a second amended complaint;

11 WHEREAS, this Court issued an order dismissing certain causes of action, striking certain  
12 prayers for relief, and confirming the briefing schedule on the motions to dismiss and sever on  
13 July 19, 2013, and ordered that any stipulation to amend be filed by August 2, 2013;

14 WHEREAS, the parties continue to negotiate a resolution to the claims made by plaintiffs  
15 Huff and Woodside and that the parties are optimistic about a resolution;

16 WHEREAS, Huff, Woodside and DDS believe that their settlement efforts may be  
17 furthered by submitting Huff's and Woodside's claims to an early settlement conference;

18 WHEREAS, the parties believe that litigating the motions now on calendar may be  
19 counterproductive to their settlement efforts;

20 WHEREAS, the parties believe that they will be better positioned to enter into a  
21 stipulation, if any, regarding leave to amend the first amended complaint following Huff's,  
22 Woodside's, and DDS' participation in an early settlement conference;

23 WHEREAS, the structure of this action will change if Huff's and Woodside's claims are  
24 settled and that the uncertainty of how this action will proceed presents challenges to completing  
25 the joint scheduling conference requirements and entering into any stipulation to amend the first  
26 amended complaint;

27 / / /

28 / / /

1 WHEREAS, Plaintiffs and DDS believe that judicial economy is served by entering into  
2 this stipulation,

3 NOW THEREFORE, IT IS HEREBY STIPULATED by and between Plaintiffs' and  
4 DDS' respective counsel, that:

5 1. DDS' motions to dismiss and sever be withdrawn without prejudice;  
6 2. The Mandatory Scheduling Conference scheduled for October 2, 2013, be vacated;  
7 3. Huff's and Woodside's claims shall be referred to a magistrate for an early settlement  
8 conference pursuant to Local Rule 270, which the parties will seek to schedule as early as  
9 September 10, 2013, or as soon thereafter pending the magistrate's availability.

10 4. This Court set a status conference for December 16, 2013, or as otherwise ordered. By  
11 December 2, 2013, or as otherwise ordered, the parties shall file a joint status report to inform the  
12 Court of progress on settlement, and the parties shall propose a schedule as to (a) when Plaintiffs  
13 will file either a motion for leave to amend their first amended complaint, or a stipulation to file a  
14 second amended complaint; (b) when DDS will file either its opposition to Plaintiffs' motion for  
15 leave to amend, or response to Plaintiffs' second amended complaint; and (c) the Mandatory  
16 Scheduling Conference date.

17 SO STIPULATED

18 Dated: August 2, 2013

Respectfully Submitted,

19 KAMALA D. HARRIS  
20 Attorney General of California  
21 JUDITH A. RECCHIO  
22 Supervising Deputy Attorney General

*/s/ Matthew T. Besmer*

23 MATTHEW T. BESMER  
24 Deputy Attorney General  
25 *Attorneys for Defendant*  
26 *Department of Developmental Services*

1 Dated: August 2, 2013

Respectfully submitted,

2 LAW OFFICES OF LAWRENCE J. KING

3  
4 */s/ Lawrence J. King*

5 Lawrence J. King  
6 Attorney for Plaintiff

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8 **ORDER -- COURT LANGUAGE ADDED TO PROPOSED ORDER**

9 The Court having reviewed the foregoing Stipulation, and good cause appearing therefor:  
10 IT IS HEREBY ORDERED that

- 11 1. DDS's motions to dismiss and sever are withdrawn without prejudice;  
12 2. The Mandatory Scheduling Conference scheduled for October 2, 2013, is vacated;  
13 3. Huff's and Woodside's claims shall be referred to Magistrate Judge Barbara  
14 McAuliffe for an early settlement conference pursuant to Local Rule 270, and the parties shall  
15 contact Judge McAuliffe's chambers to schedule the settlement conference;  
16 4. Judge McAuliffe will set a status conference. No less than seven days prior to the  
17 status conference, the parties shall file a joint status report to inform the Court of progress on  
18 settlement, and the parties shall propose a schedule as to (a) when Plaintiffs will file either a  
19 motion for leave to amend their first amended complaint, or a stipulation to file a second amended  
20 complaint; (b) when DDS will file either its opposition to Plaintiffs' motion for leave to amend,  
21 or response to Plaintiffs' second amended complaint; and (c) the Mandatory Scheduling  
22 Conference date.

23  
24  
25 IT IS SO ORDERED.

26 Dated: August 8, 2013

/s/ Lawrence J. O'Neill  
27 UNITED STATES DISTRICT JUDGE