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9 **UNITED STATES DISTRICT COURT**
10 **FOR THE EASTERN DISTRICT OF CALIFORNIA**

11 PERRY WASHINGTON,) **Case No.: 1:14-cv-00129-DAD-SAB**
12 Plaintiff,)
13 v.) **ORDER RE STIPULATION**
14 FRESNO COUNTY SHERIFF, et al.,) **REQUESTING CONTINUANCE OF**
15 Defendants.) **SCHEDULING CONFERENCE**
16) **(ECF No. 96)**
17)

18 William L. Schmidt, counsel for the plaintiff, and Scott C. Hawkins, counsel for the de-
19 fendants, do hereby stipulate as follows:

20 1. The plaintiff, Perry Washington, was recently transferred to Atascadero State Hospi-
21 tal. This transfer was made in connection with the criminal charges pending against him in
22 Fresno County Superior Court. The purpose of the transfer is to attempt to restore the plaintiff
23 to a state of mental competency so that he can assist in his own criminal defense.

24 2. Mr. Schmidt met with the plaintiff shortly before his transfer to Atascadero. Based
25 on this meeting, the transfer appears to be in the best interests of the plaintiff.
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1 3. Until such time as the plaintiff is restored to mental competency, Mr. Schmidt be-
2 lieves it will be nearly impossible to move forward with the case. Even the efficacy of settle-
3 ment discussions, as required by the Court’s settlement conference order, would be dubious
4 given the plaintiff’s current mental state. Further, based on a review of the history of this case,
5 Mr. Schmidt is unaware of any close family member suitable to represent the interests of the
6 plaintiff during his stay at Atascadero.
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8 4. Likewise, Mr. Hawkins currently sees no value in obtaining discovery from the plain-
9 tiff, particularly in the form of a deposition, given his status as not being mentally incompetent.
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11 5. Both counsel are aware of Davis v. Walker, 745 F.3d 1303 (2014), and its admonition
12 against indefinite stays pending competency in civil rights claims. However, it is felt that the
13 Court has the latitude, given that the referral to Atascadero is both recent and previously untried
14 with this plaintiff, to impose a limited and monitored continuance of the status conference to
15 assess whether the services provided to the plaintiff will be helpful.
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17 6. Based on the foregoing, counsel for both plaintiff and defendants hereby request that
18 the Court continue the status conference for a period of approximately six months. Hopefully,
19 by that time the plaintiff will have been restored to the necessary level of competency, thus al-
20 lowing the case to proceed. And, should the plaintiff not be rendered competent within said
21 time, the parties can consider other possible alternatives.
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23 7. Plaintiff’s counsel has a pre-planned vacation scheduled from April 26, 2016, to May
24 16, 2016. Currently, the scheduling conference at issue is set for April 26, 2016, and would
25 conflict with that vacation.

26 Dated: April 20, 2016 By: /s/William L. Schmidt
27 William L. Schmidt, Esq.
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1 Dated: April 20, 2016

By: /s/Scott C. Hawkins
Scott C. Hawkins, Esq.

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5 Accordingly, IT IS HEREBY ORDERED that:

6 The scheduling conference in the matter is hereby continued until November 1, 2016, at
7 3:00 p.m. The parties shall file their joint scheduling report seven days prior to the scheduling
8 conference in accordance with the Court's order of April 4, 2016.
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11 IT IS SO ORDERED.

12 Dated: April 21, 2016


UNITED STATES MAGISTRATE JUDGE