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7
8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA

10 SILVIA LOPEZ,

11 Plaintiff,

12 v.

13 GENEVIEVE SHIROMA, an individual;
14 CATHRYN RIVERA-HERNANDEZ, an
individual; J. ANTONIO BARBOSA, an
15 individual; SILAS SHAWVER, an individual;
and DOES 1 – 20,

16 Defendants.

CASE NO. 1:14-CV-00236-LJO-GSA

**STIPULATION AND ORDER TO
VACATE MANDATORY SCHEDULING
CONFERENCE AND OTHER
DEADLINES**

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18 Pursuant to Civil Local Rules 143 and 144, Plaintiff Silvia Lopez (“Plaintiff”) and
19 Defendants Genevieve Shiroma, Cathryn Rivera-Hernandez, J. Antonio Barbosa, and Silas
20 Shawver (“Defendants”) (collectively, the “Parties”) stipulate and agree, by and through their
21 respective Counsel, and hereby request this Court vacate the date of the Mandatory Scheduling
22 Conference presently scheduled on August 20, 2014, at 10:00 a.m., in Courtroom 10 of the
23 above-entitled Court, and stay other deadlines in this case as set forth below.

24 **RECITALS**

25 1. On February 21, 2014, Plaintiff filed a Complaint for Declaratory Relief and
26 Damages for Violation of Due Process under the Fourteenth Amendment and Right of
27 Association under the First Amendment against Defendants (the “Complaint”).

28 2. Prior to Defendants’ response being due, Counsel for Defendants requested an

1 extension to respond to the Complaint under Civil Local Rule 144(a), which was agreed to by
2 Counsel for Plaintiff. On April 21, 2014, Defendants filed a Motion to Dismiss.

3 3. On May 2, 2014, the Parties submitted a stipulation proposing a briefing schedule
4 for the Motion to Dismiss, which the Court approved. (DOC. 14.) The stipulated order also
5 stayed the deadline by which Defendants must file any motion under California's anti-SLAPP
6 statute pending the Court's ruling on the motion to dismiss.

7 4. On July 24, 2014, the Court issued its Memorandum Decision and Order Re
8 Defendants' Motion to Dismiss (DOC. 12) ("Order"). (DOC. 20.) In summary, the Order
9 granted in part and denied in part Defendants' Motion to Dismiss and, additionally, granted
10 Plaintiff leave to amend all causes of action in Plaintiff's complaint.

11 5. The Parties have met and conferred following the issuance of the Order, and have
12 discussed Plaintiff's intent to amend the Complaint and Defendant's intent to appeal the Order,
13 including the Court's decision denying Defendants' claim of official immunity.

14 6. Under the current schedule, the Mandatory Scheduling Conference ("Scheduling
15 Conference") is set for August 20, 2014. A Joint Scheduling Report is due to the Court on
16 August 13, 2014, which is also Plaintiff's deadline to file any amended complaint pursuant to the
17 Order. Defendants' deadline to file any appeal of the Order is August 25, 2014. Defendants
18 provide that the filing of a proper, non-frivolous appeal of an order denying official immunity
19 automatically divests the District Court of jurisdiction over the proceedings pending the appeal.
20 *See Mitchell v. Forsyth*, 472 U.S. 511 (1985); *Chuman v. Wright*, 960 F.2d 104 (9th Cir. 1992).

21 7. Therefore, in fairness to the Parties and to promote judicial economy, the Parties
22 stipulate and agree as follows: (1) the Scheduling Conference currently set for August 20, 2014,
23 as well as any meet and confer requirements and statements required to be submitted to this
24 Court related thereto, should be vacated; (2) the proceedings before this Court, including
25 Plaintiff's deadline to file any amended complaint and Defendants' deadline to file any anti-
26 SLAPP motion, should be stayed pending the appeal; and (3) within 30 days after any direct
27 appeal of the Order has been exhausted or the time for bringing an appeal has expired, the Parties
28 shall meet and confer regarding the schedule in this case and jointly submit a proposed

1 Scheduling Order to the Court.

2 8. It is in the best interests of the Parties and of this Court, and would promote
3 judicial economy, to reschedule the Scheduling Conference to a time after the status of the
4 pleadings in this case, including any amended complaint and appeal, is resolved. It would be
5 premature to attempt discuss settlement of the action, trial dates, and other significant matters
6 related to these proceedings at the presently set Scheduling Conference.

7 **STIPULATION**

8 Therefore, the Parties hereby stipulate and agree, subject to the Court’s approval, as follows:

9 9. That the Mandatory Scheduling Conference currently scheduled for August 20,
10 2014, and any meet and confer requirements and statements required to be submitted to this
11 Court related thereto, are hereby vacated.

12 10. That the proceedings before this Court, including Plaintiff’s deadline to file any
13 amended complaint and Defendants’ deadline to file any anti-SLAPP motion, are hereby stayed
14 pending any appeal of the Order. The Parties shall, within 30 days after any direct appeal of the
15 Order has been exhausted or the time for bringing an appeal has expired, meet and confer
16 regarding the schedule in this case and jointly propose a Scheduling Order to this Court.

17 Dated: August 6, 2014

WALTER & WILHELM LAW GROUP,
a Professional Corporation

18
19 /s/ Paul J. Bauer, Esq.
20 Paul J. Bauer
Attorneys for Plaintiff

21 ATTORNEY GENERAL OF CALIFORNIA

22
23 Dated: August 6, 2014

/s/ Aaron Jones
24 Aaron Jones
Attorneys for Defendants

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ORDER

The Court has reviewed the above agreement and adopts the stipulation.

IT IS SO ORDERED.

Dated: August 7, 2014

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE

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