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3 **UNITED STATES DISTRICT COURT**
4 **FOR THE EASTERN DISTRICT OF CALIFORNIA**

5 **K.M, a minor, by and through her parent and**
6 **guardian ad litem, BRENDA MARKHAM**

7 **Plaintiff,**

8 **v.**

9 **TEHACHAPI UNIFIED SCHOOL**
10 **DISTRICT and KATHLEEN SICILIANI**

11 **Defendants.**

1:15-cv-001835-LJO-JLT

ORDER STAYING CASE

12 This case concerns an appeal from an administrative due process decision from a hearing under
13 the Individuals with Disabilities Education Act (“IDEA”), 20 U.S.C. § 1400 *et seq.*, as well as claims for
14 damages under 42 U.S.C. § 1983 and § 1985, the Americans with Disabilities Act, § 504 of the
15 Rehabilitation Act of 1973, and for attorney’s fees under 20 U.S.C. § 1415(i)(3) and California
16 Education Code § 56507, and for fees and costs. Pretrial conference is currently set for August 1, 2017,
17 and trial is set for September 26, 2017.

18 On April 5, 2017, the Court issued a memorandum decision and order affirming the
19 administrative decision regarding Plaintiff’s IDEA claims. Doc. 49. On May 2, 2017, Plaintiff filed a
20 notice of appeal, which the Clerk of Court processed to the Ninth Circuit. Docs. 51, 54. On June 19,
21 2017, the Court directed the parties to submit a joint status report regarding the remaining non-IDEA
22 claims in this case. Doc. 57. Plaintiff filed a joint status report on July 3, 2017. Doc. 58.

23 Having reviewed the joint status report as well as the remaining claims in this matter, the Court
24 finds good cause to stay proceedings in this case for six months from the date of this order. Defendants
25 assert that a resolution of Plaintiff’s IDEA claims is intrinsic to their defenses to Plaintiff’s other claims.

1 Accordingly, Defendants request a stay of any further proceedings until the Ninth Circuit rules on the
2 appeal. Plaintiff does not oppose resetting the trial date for the remaining claims. The Court declines to
3 set an indefinite stay. Instead, the Court will stay proceedings for six months and continue all deadlines
4 in the case by six months. The Court has not directed entry of final judgment on any of Plaintiff's
5 claims. A six month stay will afford the Ninth Circuit the opportunity to review whether Plaintiff's
6 appeal is proper in light of the status of this case and Federal Rule of Civil Procedure 54(b), while
7 securing a trial date six months out from the current date will avoid undue delay in light of this Court's
8 overcrowded docket.

9 Accordingly, IT IS HEREBY ORDERED that this case is STAYED for the term of six months
10 from the date of this order. The pretrial date is CONTINUED to February 8, 2018, at 8:30 a.m.; the trial
11 date is CONTINUED TO April 24, 2018, at 8:30 a.m.; and any other pending deadlines are
12 CONTINUED BY SIX MONTHS. Ten days before the expiration of the six month stay, or within ten
13 days of the issuance of any dispositive order by the Ninth Circuit, the parties shall file a joint status
14 report indicating their positions regarding this matter. The Clerk of Court is directed to send a copy of
15 this order to the Ninth Circuit.

16
17 IT IS SO ORDERED.

18 Dated: July 11, 2017

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