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26 **UNITED STATES DISTRICT COURT**

27 **EASTERN DISTRICT OF CALIFORNIA**

28 **THE ESTATE OF DONALD MALIHK) Case No.: 1:16-CV-00188 DAD JLT**

LEIVINGSTON, TRACI MORALES,)

individually and as successor in interest to) STIPULATION FOR A COURT

the ESTATE OF DONALD MALIHK) CONFERENCE TO AMEND THE

LEIVINGSTON, ELIJAH LEVINGTSON) SCHEDULING ORDER

by and through his *Guardian Ad Litem*) [~~PROPOSED ORDER~~]

TRACI MORALES and ELIZABETH)

LEIVINGSTON, by and through her)

***Guardian Ad Litem* TRACI MORALES)**

Plaintiffs,)

v.)

1 COUNTY OF KERN, KERN COUNTY)
2 SHERIFF'S DEPT., DEPUTY DAVID)
3 MANRIQUEZ, KERN COUNTY)
4 SHERIFF DONNY YOUNGBLOOD,)
5 HALL AMBULANCE SERVICE, INC.,)
6 BRENDA ROBINSON and DOES 1)
THROUGH 25, INCLUSIVE)
Defendants.)

7 COME NOW the Parties in this matter, and present this Stipulation requesting a Court
8 Conference to allow for an amendment to the current scheduling ordered dates.

9 Plaintiffs, the Estate Of Donald Maliik Levingston, Traci Morales, individually and as
10 successor in interest to the Estate Of Donald Maliik Levingston, Elijah Levingston by and
11 through his Guardian Ad Litem Traci Morales and Elizabeth Levingston, by and through her
12 Guardian Ad Litem Traci Morales (hereinafter collectively "Plaintiffs") are represented by
13 Michael J. Curls and Nichelle D. Jones of the Law Offices of Michael J. Curls.

14 Defendants, Hall Ambulance Service, Inc. and Brenda Robinson (hereinafter
15 collectively "Hall Defendants") are represented by Deborah S. Tropp of McNeil and Christina
16 Meissner, Tropp & Braun.

17 Defendants, County of Kern, Sheriff Youngblood and Deputy Manriquez, (hereinafter
18 collectively "County Defendants") are represented by Andrew C. Thomson, of the Office of
19 Kern County Counsel.

20 Plaintiffs, Hall Defendants and County Defendants are hereinafter collectively referred
21 to as the "Parties" and provide as follows:

22 **THE PARTIES FIND AND AGREE AS FOLLOWS:**

23 Pursuant to the Court's Scheduling Order, non-expert discovery will close on March
24 31, 2017.

25 Counsel for County Defendants is scheduled to begin a three week trial in Sacramento
26 on March 27, 2017, and will be preparing for trial and preparing trial documents and materials
27 for the preceding two weeks, from March 13, 2017 to March 27, 2017.

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1 The Parties have recently propounded written discovery, as follows:

2 2/24/17 - Defendants propounded Requests for Admissions, Set One, to Plaintiff
3 Morales;

4 2/24/17 - Plaintiff Estate of Levingston propounded Interrogatories, Set One, on
5 Defendant Manriquez;

6 2/24/17 - Plaintiff Estate of Levingston propounded Interrogatories, Set One, on
7 Defendant Sheriff Youngblood;

8 2/24/17 - Plaintiff Estate of Levingston propounded Interrogatories, Set One, on
9 Defendant County of Kern;

10 2/24/17 - Plaintiff Morales propounded Requests for Production, Set One, on
11 Defendant County of Kern; and,

12 2/24/17 - Plaintiff Estate of Levingston propounded Interrogatories, Set One, on
13 Defendant Robinson.

14 In addition, Plaintiffs have noticed the following depositions:

15 Plaintiffs noticed the deposition of Defendant Robinson for March 16th at 10 a.m. in
16 Los Angeles.

17 Plaintiffs noticed the deposition of witness Paramedic Eastwood for March 16th at 2
18 p.m. in Los Angeles.

19 Plaintiffs noticed the deposition of Defendant Manriquez for March 20th at 10 a.m. in
20 Los Angeles.

21 Plaintiffs noticed the deposition of witness Deputy Rutter for March 20th at 3 p.m. in
22 Los Angeles.

23 Plaintiffs noticed the deposition of witness Deputy Fernandez for March 21st at 10 a.m.
24 in Los Angeles.

25 Plaintiffs noticed the deposition of witness Deputy Flores for March 21st at 1 p.m. in
26 Los Angeles.

27 Plaintiffs noticed the deposition of witness Deputy Patton for March 21st at 2:30 p.m. in
28 Los Angeles.

1 Plaintiffs noticed the deposition of Sheriff Donny Youngblood for March 22nd at 10
2 a.m. in Los Angeles.

3 Plaintiffs noticed the deposition of witness Farley for March 27th at 9 a.m. in
4 Bakersfield.

5 Plaintiffs noticed the deposition of witness Fox for March 27th at 11 a.m. in
6 Bakersfield.

7 Plaintiffs noticed the deposition of witness Trevino for March 27th at 1 p.m. in
8 Bakersfield.

9 Plaintiffs noticed the deposition of witness Dr. Amin for March 27th at 3 p.m. in
10 Bakersfield.

11 Plaintiffs noticed the deposition of witness Farley for March 27th at 9 a.m. in
12 Bakersfield.

13 County Defendants are not available for any of the depositions as noticed, and Hall
14 Defendants are unavailable for some of the noticed depositions.

15 In addition, Plaintiffs have proposed, and the Parties have stipulated to, the filing of a
16 First Amended Complaint which will insert new paragraphs, 4 and 5. The new paragraphs
17 identify and introduce into the litigation two new Plaintiffs who are the offspring of Decedent.
18 County and Hall Defendants believe that since the two omitted heirs were joined as Plaintiffs
19 rather than nominal defendants, Defendants need an opportunity to conduct discovery as to the
20 new Plaintiffs.

21 The Parties agree that all dates and times addressed in the Scheduling Order and
22 subsequent Orders should be reviewed and reconsidered in light of the scheduling issues with
23 the pending trials of counsel for Hall Defendants and County Defendants, the timing of
24 depositions and written discovery responses, along with the addition of two new parties.

25 As to the noticed depositions, the Parties have met and conferred and agreed to the
26 continuance of the depositions to allow time for trials and trial preparation. The Parties have
27 agreed to continuances, to as of yet undecided dates, but by necessity such a date will fall
28 outside of the currently scheduled close of discovery.

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As to the Parties currently pending written discovery and discovery related to the new Plaintiffs, the Parties would like to address the scheduling with the Court.

IT IS THEREFOR STIPULATED:

Based upon the foregoing, the Parties agree and stipulate, as follows:

The Parties stipulate to an amendment of the Scheduling Order and agree to participate in a Court Conference to address scheduling concerns.

DATED: March 10, 2017

Law Offices of Michael J. Curls

By: /s/ Nichelle D. Jones _____
Michael J. Curls, Esq.
Nichelle D. Jones, Esq.
Attorneys for Plaintiffs Estate of Donald Maliik
Levingston, Traci Morales, Elijah Levingston and
Elizabeth Levingston

DATED: March 10, 2017

McNeil Tropp & Braun LLP

By: /s/ Christina Meissner _____
Deborah S. Tropp, Esq.
Christina Meissner, Esq.
Attorneys for Defendants Hall Ambulance Service,
Inc. and Brenda Robinson

1 DATED: March 10, 2017

Mark L. Nations, Interim County Counsel

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4 By: /s/ Andrew C. Thomson
5 Andrew C. Thomson, Deputy
6 County Of Kern, Deputy David Manriquez and
7 Kern County Sheriff Donny Youngblood

8 **ORDER**

9 Based upon the stipulation of counsel, the Court **ORDERS:**

10 1. The Court sets a status conference re: further scheduling on **April 27, 2017¹** at
11 8:30 a.m. Counsel may appear by telephone by calling (888) 557-8511 and using access code
12 1652736#, **provided** they submit a notice of intent to appear telephonically to
13 JLTOorders@caed.uscourts.gov **no later than April 21, 2017.**

14 2. In the meanwhile, Plaintiff may reset the depositions, set forth above, for dates
15 after Mr. Thomson completes his three-week trial.

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17 IT IS SO ORDERED.

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19 Dated: **March 14, 2017**

 /s/ Jennifer L. Thurston
20 UNITED STATES MAGISTRATE JUDGE

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28 ¹ The Court anticipates service on the newly added parties will occur expeditiously so that it will know the extent to which the new parties will participate in the matter.