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 SHERIFF'S OFFICE, JOHN P. BAILEY,
 9 CAPTAIN EDDIE BALLARD and
 LIEUTENANT TIM STURM
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11 UNITED STATES DISTRICT COURT
 12 EASTERN DISTRICT OF CALIFORNIA,
 13 FRESNO DIVISION

14 COLEMAN PAYNE, an individual,
 15 Plaintiff,
 16 v.
 17 STATE OF CALIFORNIA, a government
 entity and state in the United States;
 18 DEPARTMENT OF STATE HOSPITALS, a
 government agency form unknown;
 19 METROPOLITAN STATE HOSPITAL, an
 entity form unknown; COUNTY OF
 20 CALAVERAS, a government entity in the
 State of California; CALAVERAS COUNTY
 21 SHERIFF, a governmental agency of unknown
 form; CALAVERAS COUNTY JAIL, an
 22 entity form unknown; JOHN P. BAILEY, an
 individual; JOY LYNCH, an individual;
 23 CALIFORNIA FORENSIC MEDICAL
 GROUP, a business entity of unknown form
 24 located in the State of California; DOES 2
 through 50 inclusive,
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 26 Defendants.

Case No. 1:17-cv-00906-DAD-SKO
**STIPULATION AND ORDER RE
 AMENDING SCHEDULING ORDER TO
 CONTINUE DATES**

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1 IT IS HEREBY STIPULATED by and among Plaintiff COLEMAN PAYNE, Defendants
2 COUNTY OF CALAVERAS, COUNTY OF CALAVERAS SHERIFF'S OFFICE, SERGEANT
3 JOHN BAILEY, CAPTAIN EDDIE BALLARD, LIEUTENANT TIM STRUM (collectively the
4 "County Defendants") and Defendants CALIFORNIA FORENSIC MEDICAL GROUP and JOY
5 LYNCH (collectively the "CFMG Defendants"), through their respective counsel that the Court be
6 requested to enter an Order to continue the following dates previously set¹:

7 **DISCOVERY DEADLINES**

8 Non-Expert Discovery (as to John Payne's Deposition only) – Current Date: November
9 22, 2019 (previously extended from October 31, 2019)

10 Non-Expert Discovery (as to John Payne's Deposition only) – Proposed Date: February 28,
11 2020

12 Expert Disclosure – Current Date: November 22, 2019 (previously extended from October
13 31, 2019)

14 Expert Disclosure – Proposed Date: February 28, 2020

15 Expert Discovery – Current Date: December 13, 2019

16 Expert Discovery – Proposed Date: April 13, 2020

17 **NON-DISPOSITIVE MOTION DEADLINE**

18 Non-Dispositive Motions – Current Date: January 3, 2020

19 Non-Dispositive Motions – Proposed Date: May 4, 2020

20 **DISPOSITIVE MOTION DEADLINES**

21 Dispositive Motions – Current Date: January 31, 2020

22 Dispositive Motions – Proposed Date: June 1, 2020

23 **SETTLEMENT CONFERENCE**

24 Pretrial SC Telephone Conference – Current Date: November 6, 2019 @ 4:00 p.m.

25 Pretrial SC Telephone Conference – Proposed Date: March 6, 2020 @ 4:00 p.m.

26 Settlement Conference – Current Date: November 12, 2019 @ 10:00 a.m.

27 ¹ All proposed dates are four months later than the current dates, except where the current dates have
28 already been moved by the Court or the proposed date falls on a weekend, holiday or during a holiday week
(such as Thanksgiving).

1 Settlement Conference – Proposed Date: March 12, 2020 @ 10:00 a.m.

2 **TRIAL**

3 Trial – Current Date: July 28, 2020 @ 8:30 a.m.

4 Trial – Proposed Date: December 7, 2020 @ 8:30 a.m.

5 Good cause exists for the continuation of the above dates for the following reasons:

6 1. The County Defendants have diligently attempted to locate and serve John Payne,
7 Plaintiff’s father and a critical witness in this case, for over a year. An address of 8340 W. Maya
8 Dr. in Peoria, AZ was provided as Mr. Payne’s residence as of June 29, 2018. However, it
9 became clear to the County Defendants (after several unsuccessful attempts to notice and serve
10 Mr. Payne’s deposition) that he was no longer residing at the Maya Dr. address and was unable to
11 be served there. The County Defendants attempted to gain updated information from Plaintiff, and
12 ultimately served Interrogatories on Plaintiff seeking the current location of Mr. Payne on May 24,
13 2019. On July 5, 2019 Plaintiff served responses to the Interrogatories which consisted solely of
14 objections. After meeting and conferring, Plaintiff served “supplemental responses” on September
15 9, 2019 which stated that Mr. Payne’s “last known address” is the Maya Dr. address, to the “best
16 of her knowledge” Mr. Payne is retired and/or unemployed, that he “might be living with his
17 current girlfriend,” and that the last time Plaintiff talked to Mr. Payne was September 2, 2019.

18 In the meantime, Defense counsel also attempted informal means of obtaining the
19 information on Mr. Payne’s whereabouts and serving a subpoena by contacting Mr. Payne’s
20 personal attorney Samuel Doncaster. The County Defendants have been attempting - since June
21 30, 2019 - to reach an agreement with Mr. Doncaster to accept service and agree on a date for the
22 deposition, all to no avail (despite many attempts on behalf of the Defendants, most of which
23 without any response from Mr. Doncaster).

24 On September 20, 2019, the Court held a telephonic discovery conference and ordered that
25 Plaintiff supplement her initial disclosures and her responses to Defendant Ballard’s discovery
26 responses to include updated contact information for John Payne. Plaintiff’s supplements
27 continued to provide the same Maya Dr. address previously provided.

28 On October 23, 2019, the Court again held a telephonic discovery conference with the

1 Parties. As the Court acknowledged, despite over a month having passed, Defendants were no
2 closer to being able to serve John Payne. Acknowledging the significant delays in the setting of
3 Payne's deposition, the Court subsequently ordered that Plaintiff provide updated information and
4 a status update on her efforts to facilitate the deposition with Mr. Payne's attorney no later than the
5 next day.

6 On October 25, 2019, the Parties and Mr. Doncaster were able to come to an agreement to
7 take the deposition of John Payne on December 11, 2019 in Scottsdale, AZ.

8 2. John Payne is a vital witness in this matter. Mr. Payne was present at Plaintiff's
9 deposition and was in contact with Plaintiff as recently as September 2, 2019, had communication
10 with County personnel during the time Plaintiff was incarcerated, was in communication with
11 Plaintiff's attorney and Plaintiff during this time (visiting both in person and talking over the
12 phone), and is believed to have extensive knowledge regarding Plaintiff's mental health
13 conditions, prior medical treatment thereof, medications Plaintiff has been prescribed or was
14 taking at the time of her incarceration and prior arrests. In addition, John Payne has been
15 identified by Plaintiff as a person believed to have knowledge of the facts supporting the amount
16 of damages alleged to have been suffered by Plaintiff.

17 3. John Payne's testimony is critical to Defendants' ability to properly defend this
18 matter, and Defendants will be prejudiced if they are unable to complete his deposition prior to the
19 currently set dates. Because of the importance of this deposition, the Court has already found
20 good cause to move the non-expert discovery cut off to allow for the deposition to be taken.
21 Likewise, the Court has found good cause to extend the expert disclosure date to accommodate the
22 deposition. However, it is critical that Mr. Payne's deposition be taken before any other deadlines
23 pass. The testimony will need to be obtained, reviewed and analyzed by Defendants to determine
24 (a) what, if any, additional experts may be needed to defend the case (thereby affecting the Expert
25 Disclosure deadlines as well as Expert Discovery deadlines); (2) whether or not dispositive
26 motions are appropriate (thereby affecting the Dispositive Motion deadlines); (3) the potential
27 liability, if any, on behalf of the Defendants; and (4) any potential settlement value for the case
28 (thereby affecting the Settlement Conference deadlines). Mr. Payne's testimony is likewise

1 necessary for trial purposes (whether or not Mr. Payne will testify in person or via deposition
2 transcript), thereby affecting the currently set trial date.

3 For the foregoing reasons, the Parties hereby stipulate and request that the Court extend the
4 above dates to the new proposed dates, or alternatively, later dates which accommodate the
5 Court's schedule.

6 Dated: October 24, 2019

McCORMICK, BARSTOW, SHEPPARD,
WAYTE & CARRUTH LLP

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By: /s/ Laura A. Wolfe

Mart B. Oller IV

Laura A. Wolfe

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Attorneys for Defendants COUNTY OF
CALAVERAS, CALAVERAS COUNTY

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SHERIFF'S OFFICE, JOHN P. BAILEY,

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CAPTAIN EDDIE BALLARD and LIEUTENANT
TIM STURM

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15 Dated: October 24, 2019

SLATER LAW, APC

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/s/ Theodore Slater (authorized on

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By: 10/25/19

Theodore Slater

18

Attorneys for Plaintiff COLEMAN PAYNE

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20 Dated: October 24, 2019

THE LAW OFFICES OF JEROME M. VARNINI

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/s/ Jerome Varnini (authorized on

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By: 10/25/19

Jerome Varnini

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Attorneys for Defendants JOY LYNCH and
CALIFORNIA FORENSIC MEDICAL GROUP

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ORDER

1 Based in part on the parties' above-stipulation, (Doc. 103), and with good cause shown, the
 2 Court hereby GRANTS IN PART the parties' stipulated request and ORDERS that the scheduling
 3 order dates are modified as follows:²

Event	Prior Date	Continued Date
Non-Expert Discovery (as to John Payne's deposition only)	November 22, 2019	December 30, 2019 ³
Expert Disclosures	November 22, 2019	January 30, 2020
Rebuttal Expert Disclosures	November 22, 2019	March 2, 2020
Expert Discovery Completion	December 13, 2019	April 13, 2020
Non-Dispositive Motion Filing	January 3, 2020	May 4, 2020
Non-Dispositive Motion Hearing	February 5, 2020	June 3, 2020
Dispositive Motion Filing	January 31, 2020	June 10, 2020
Dispositive Motion Hearing	March 17, 2020	July 21, 2020
Submit Confidential Settlement Statements	October 29, 2019	February 27, 2020
Telephonic Pre-Settlement Conference	November 6, 2019	March 4, 2020, at 3:00 p.m.
Settlement Conference	November 12, 2019	March 12, 2020, at 10:30 a.m.
Pretrial Conference	June 1, 2020, at 3:30 p.m.	October 19, 2020, at 1:30 p.m.
Trial	July 28, 2020, at 8:30 a.m.	December 15, 2020, at 1:00 p.m.

23 ² Several of the dates proposed by the parties, including the expert disclosures and rebuttal expert disclosures
 24 deadlines, have been adjusted to comport with the Court's calendar and scheduling preferences, to allow the Court
 25 adequate time to rule on dispositive motions, and to permit the parties sufficient time to prepare their pretrial
 26 submissions and for trial. The parties are advised that the Court will not grant any further extensions of the scheduling
 27 order deadlines absent extenuating circumstances.

28 ³ This deadline has been modified by the Court as the parties have not shown good cause to extend the time for taking
 John Payne's deposition to February 28, 2020. The Court has already held two informal discovery dispute
 conferences related to John Payne's deposition on September 20, 2019, and October 23, 2019, (*see* Docs. 96, 97, 99,
 100). Following the October 23, 2019, conference, Plaintiff filed a statement stating that John Payne's deposition is
 set for December 11, 2019, (Doc. 101), and it is not clear why the parties need a continuance past December to
 complete the deposition. The parties are expected to complete John Payne's deposition by the end of December.

1 IT IS SO ORDERED.

2 Dated: October 30, 2019

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE

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