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 CALAVERAS, CALAVERAS COUNTY  
 SHERIFF'S OFFICE, JOHN P. BAILEY,  
 7 CAPTAIN EDDIE BALLARD and  
 LIEUTENANT TIM STURM  
 8

9 UNITED STATES DISTRICT COURT  
 10 EASTERN DISTRICT OF CALIFORNIA,  
 11 FRESNO DIVISION

12 COLEMAN PAYNE, an individual,  
 13 Plaintiff,  
 14 v.

Case No. 1:17-cv-00906-DAD-SKO

**STIPULATION AND ORDER RE  
 AMENDING SCHEDULING ORDER TO  
 CONTINUE DATES**

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

25  
 26 IT IS HEREBY STIPULATED by and among Plaintiff COLEMAN PAYNE, Defendants  
 27 COUNTY OF CALAVERAS, COUNTY OF CALAVERAS SHERIFF'S OFFICE, SERGEANT  
 28 JOHN BAILEY, CAPTAIN EDDIE BALLARD, LIEUTENANT TIM STRUM (collectively the

1 “County Defendants”) and Defendants CALIFORNIA FORENSIC MEDICAL GROUP, INC.,  
2 DR. MARSHA MCKAY, and JOY LYNCH (collectively the “CFMG Defendants”), through their  
3 respective counsel that the Court be requested to enter an Order to continue the following dates  
4 previously set.

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

6 This request and stipulation is based on the fact that unavoidable delays encountered as a  
7 result of Covid 19, which is one of the worst health pandemic the world has experienced in recent  
8 history, have precluded counsel from adequately preparing the case for trial. As but one example  
9 of the challenges the attorneys have experienced in this matter, counsel for the County Defendants,  
10 who has an employment law based practice has been deluged with assisting employer clients  
11 navigate and survive the Covid 19 issues. Further, counsel for County Defendants is informed and  
12 believes to be true that during a recent telephonic conference with Judges of the Eastern District  
13 and Federal practitioners regarding the status of Eastern District Court proceedings in light of the  
14 Covid 19 issues, Judge Anthony Ishi indicated that he did not believe that it was likely that civil  
15 cases would proceed to trial for the remainder of the year. Since this statement was made by  
16 Judge Ishi, the Covid infection occurrences and situation in Fresno County have worsened  
17 dramatically, with Fresno County remaining on the State watch list and schools not allowed to re-  
18 open. In light of the current Covid situation and with the upcoming cold and flu season, the  
19 chances of this case going to trial on December 15, 2020 are nil. Under the truly exceptional  
20 circumstances that the parties find themselves, it is believed that the continued trial date to June 8,  
21 2021, will provide the most viable chance for having the case tried should a trial be necessary.  
22 Counsel for the County Defendants wishes to bring to the Court’s attention that a similar  
23 stipulation and request for continuance was recently granted by Magistrate Judge Erica Grosjean  
24 in case no. 1:18-CV-00662-AWI-EPG (docs. 27, 28).

25 Based on the above, the parties believe that the interests of judicial economy and justice  
26 are best served by the requested continuance of the dates below, which allow for the parties to  
27 proceed toward trial in this matter without facing the problem of having the court set trial itself for  
28 even later than the parties request herein. The Parties hereby stipulate and request that the Court

1 extend the above dates to the new proposed dates, or alternatively, later dates which accommodate  
2 the Court’s schedule.

3 **SETTLEMENT CONFERENCE**

4 Submit Confidential Settlement Statements – Current Date: September 1, 2020

5 Submit Confidential Settlement Statements – Proposed Date: February 24, 2021

6 Pretrial SC Telephone Conference – Current Date: September 9, 2020 at 3:30 p.m.

7 Pretrial SC Telephone Conference – Proposed Date: March 4, 2021 at 3:30 p.m.

8 Settlement Conference – Current Date: September 15, 2020 at 10:30 a.m.

9 Settlement Conference – Proposed Date: March 12, 2021 at 10:30 a.m.

10 **PRETRIAL CONFERENCE**

11 Pretrial Conference - Current Date: October 19, 2020, at 1:30 pm.

12 Pretrial Conference - Proposed Date: April 5, 2021 at 1:30 p.m.

13 **TRIAL**

14 Trial – Current Date: December 15, 2020 at 1:30 p.m.

15 Trial – Proposed Date: June 8, 2021 at 1:30 p.m.

16 Dated: August 25, 2020

McCORMICK, BARSTOW, SHEPPARD,  
WAYTE & CARRUTH LLP

19 By:                   /s/ Mart B. Oller, IV                  

Mart B. Oller IV

Attorneys for Defendants COUNTY OF  
CALAVERAS, CALAVERAS COUNTY  
SHERIFF’S OFFICE, JOHN P. BAILEY,  
CAPTAIN EDDIE BALLARD and LIEUTENANT  
TIM STURM

24 Dated: August 25, 2020

SLATER LAW, APC

26 By:                   /s/ Theodore Slater                  

Theodore Slater

Attorneys for Plaintiff COLEMAN PAYNE

28 ///

1 Dated: August 25, 2020

THE LAW OFFICES OF JEROME M. VARNINI

2  
3 By:                   /s/ Jerome Varnini                    
4 Jerome Varnini  
5 Attorneys for Defendants JOY LYNCH,  
6 CALIFORNIA FORENSIC MEDICAL GROUP,  
7 INC., DR. MARSHA MCKAY

8  
9 **ORDER**

10 Pursuant to the parties' above stipulation, for good cause shown, the Court GRANTS the  
11 parties' request to modify the remaining scheduling order dates. However, the Court will modify  
12 the proposed settlement conference date to conform to the Court's scheduling preferences. The  
13 remaining dates are modified as follows:

14 1. The settlement conference is CONTINUED from September 15, 2020, to **March**  
15 **16, 2021, at 10:30 a.m.** The telephonic pre-settlement conference is CONTINUED from  
16 September 9, 2020, to **March 3, 2021, at 3:00 p.m.** The parties SHALL submit their confidential  
17 settlement statements by no later than **February 24, 2021.**

18 2. The pretrial conference date is CONTINUED from October 19, 2020, to **April 5,**  
19 **2021, at 1:30 p.m.**

20 3. The trial date is CONTINUED from December 15, 2020, to **June 8, 2021, at 8:30**  
21 **a.m.**

22  
23 IT IS SO ORDERED.

24 Dated:           **August 27, 2020**          

25   /s/ Sheila K. Oberto    
26 UNITED STATES MAGISTRATE JUDGE