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15 **UNITED STATES DISTRICT COURT**
16 **EASTERN DISTRICT OF CALIFORNIA**

17 U.S. EQUAL EMPLOYMENT
18 OPPORTUNITY COMMISSION,

19 Plaintiff,

20 vs.

21 PRESTIGE CARE, INC., PRESTIGE
22 SENIOR LIVING, LLC, CYPRESS POINT
23 VENTURES, LLC, PRESTIGE SENIOR
24 MANAGEMENT, LLC, CARE CENTER
25 (ANCHORAGE), INC., GREEN VALLEY
26 VENTURES, LLC, LAKE HAVASU TOO,
27 LLC, SIERRA VISTA VENTURES, LLC,
28 CHICO VENTURES, LLC, MANTECA
VENTURES, LLC, MARYSVILLE
VENTURES, LLC, OROVILLE ASSISTED
LIVING, LLC, VISALIA VENTURES, LLC,
CARE CENTER (LEWISTON), INC.,
CALDWELL VENTURES, LLC,
PARKWOOD MEADOWS, LLC,
KALISPELL VENTURES, LLC,
HENDERSON VENTURES II, LLC, CARE
CENTER (GLISAN), INC., CARE CENTER
(HOOD RIVER), INC., CARE CENTER

) Case No.: 1:17-cv-01299-AWI-SAB

) **EX PARTE MOTION TO CONTINUE**
) **THE MANDATORY SCHEDULING**
) **CONFERENCE**

1 (LANECO), INC., CARE CENTER (LINDA)
 2 VISTA), INC., CARE CENTER (MENLO)
 3 PARK), INC., CARE CENTER)
 4 (PORTHAVEN), INC., CARE CENTER)
 5 (WILLOWBROOK), INC., PCI CARE)
 6 VENTURE I, INC., SUMMERPLACE)
 7 ASSISTED LIVING, LLC, CARE CENTER)
 8 (CAMAS), INC., CARE CENTER)
 9 (CENTRALIA), INC., CARE CENTER)
 10 (COLVILLE), INC., CARE CENTER)
 11 (EDMONDS), INC., CARE CENTER)
 12 (HAZEL DELL), INC., CARE CENTER)
 13 (SULLIVAN PARK), INC., CARE CENTER)
 14 (SUNNYSIDE), INC., CARE CENTER)
 15 (TOPPENISH), INC., GIG HARBOR)
 16 VENTURES, LLC, LIVING COURT)
 17 VENTURES, LLC, ENUMCLAW)
 18 VENTURES II, LLC, AND DOES 1-100,)
 19 INCLUSIVE,)
 20)
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 Defendants.

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 17 Plaintiff United States Equal Employment Opportunity Commission (“EEOC”) submits
 18 the following *ex parte* motion to continue the mandatory scheduling conference, which is
 19 currently set for December 19, 2017.

20 On September 28, 2017, the EEOC filed the instant action against Defendants. (ECF No.
 21 1). Thereafter, the Court issued an order setting the mandatory scheduling conference for
 22 December 19, 2017. (ECF No. 12). Pursuant to that Order, the joint scheduling report is due on
 23 December 12, 2017, and the parties must meet and confer pursuant to Fed. R. Civ. P. 26(f) by
 24 November 28, 2017. *Id.*

25 Good cause exists to continue the mandatory scheduling conference to a date on or after
 26 January 29, 2017. Pursuant to Local Rule 144(c), a stipulation extending time cannot reasonably
 27 be obtained and an extension is necessary for the reasons detailed below. EEOC has named
 28 thirty-eight (38) defendants, who have different registered Agents for Service. EEOC has

1 attempted to contact Defendants' corporate counsel as well as the counsel who represented
2 Defendants during the investigation to request a waiver of service and/or inquire as to whether
3 counsel is authorized to accept service on behalf of all Defendants. EEOC first contacted
4 Defendants' outside counsel who represented Defendants during the EEOC's investigation,
5 Kimberlee Morrow, on October 10, 2017 and provided her with the Complaint (ECF No. 1) and
6 Order Setting Mandatory Scheduling Conference (ECF No. 12) so Defendants would be aware of
7 the dates set by the Order Setting Mandatory Scheduling Conference. Ms. Morrow informed
8 EEOC that she is not representing Defendants in the litigation but that she would held EEOC
9 find out who would represent Defendants. On October 18, 2017, EEOC again contacted Ms.
10 Morrow to follow-up via voicemail and e-mail. Ms. Morrow informed EEOC that she would get
11 back to EEOC shortly. EEOC spoke with Ms. Morrow telephonically on October 26, 2017. On
12 October 31, 2017, Ms. Morrow provided EEOC with contact information for Defendants'
13 corporate counsel, Ryan Delamarter. EEOC first reached out to Mr. Delamarter on October 31,
14 2017. On November 7, 2017, Mr. Delamarter promised to provide EEOC's contact information
15 for Defendants' retained counsel so Defendants' counsel could reach out to the EEOC. EEOC
16 followed up with an email to Mr. Delamarter on the same day, November 7, 2017, and asked to
17 be provided with Defendants' counsel's contact information but never heard back from Mr.
18 Delamarter. EEOC also has not heard from Defendants' retained counsel.

19 As such, despite its best efforts, EEOC has not spoken to Defendants' counsel of record
20 and had no choice but to serve each Defendant's registered Agent for Service individually. On
21 November 14, 2017, EEOC commenced service on Defendants. Thus, each Defendant has
22 twenty-one (21) days from the date of service to file a responsive pleading. Based on the dates of
23 service, the earliest deadline for Defendants to file such responsive pleading will be December 5,
24 2017, which falls after the last possible date to conduct the conference of counsel pursuant to
25 Rule 26(f) and just four calendar days before the joint scheduling report is due to the Court.
26 EEOC also asks that the Court take into consideration the upcoming holidays, during which the
27 conference of counsel may be challenging to coordinate due to the parties' holiday schedules.
28 Because Defendants have not yet appeared and EEOC has had difficulty maintaining contact

1 with Defendants' counsel, the only attorney whose involvement EEOC is currently aware of,
2 EEOC brings this motion *ex parte*.

3 Thus, EEOC respectfully requests an *ex parte* motion to continue the mandatory
4 scheduling conference, the deadline for the Rule 26(f) conference of counsel, and the deadline
5 for the joint scheduling report to filed until at least January 29, 2018 to allow Defendants to file
6 their responsive pleadings before the parties are required to conduct the Rule 26(f) conference of
7 counsel. This will allow for the parties' Rule 26(f) conference of counsel and submission of the
8 joint scheduling report to occur after the responsive pleadings are due and after the holidays. The
9 requested continuance will not result in any undue delay or prejudice to any of the parties, as the
10 request is only to continue the deadlines six weeks and litigation has not yet commenced.

11 Accordingly, the EEOC requests that this Court continue the mandatory scheduling
12 conference, which is currently set for December 19, 2017 until at least January 29, 2018.

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15 Dated: November 22, 2017

Respectfully Submitted,

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18 /s/ Nakkisa Akhavan

Nakkisa Akhavan

19 Attorney for Plaintiff U.S. Equal
20 Employment Opportunity Commission
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1 **ORDER**

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3 **FOR GOOD CAUSE SHOWN, IT IS HEREBY ORDERED** that the Scheduling
4 Conference shall be continued to February 6, 2018 at 3:30 p.m. before Magistrate Judge Stanley
5 A. Boone. A Joint Scheduling Conference report is due one week before the new conference
6 date. All deadlines set forth in the Order Setting Mandatory Scheduling Conference (Dkt. No.
7 12) will be automatically continued based on the new Scheduling Conference date.

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10 IT IS SO ORDERED.

11 Dated: November 22, 2017

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UNITED STATES MAGISTRATE JUDGE