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14 **UNITED STATES DISTRICT COURT**
15 **EASTERN DISTRICT OF CALIFORNIA, FRESNO DIVISION**
16

17 J.I., an individual,

18 Plaintiff,

19 v.

20 UNITED STATES,

21 Defendant.

Case No. 1:18-cv-00363-LJO-SAB

**STIPULATION AND ORDER RE: STAY
OF UNITED STATES OF AMERICA'S
MOTION TO DISMISS; LIMITED
DISCOVERY SCHEDULE; AND
CONTINUING SCHEDULING
CONFERENCE**

Judge: Lawrence J. O'Neill

Trial Date: None Set

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1 Plaintiff J.I. and Defendant United States of America hereby file this Joint Stipulation and
2 Proposed Order under Civil L.R. 143 to stay Defendant’s Motion to Dismiss (“Motion”) (ECF No.
3 24) to allow the parties to conduct limited discovery on items relevant to the issues pending in the
4 Motion and to extend the Fed. R. Civ. P. 26(f) deadlines and Mandatory Scheduling Conference
5 set forth in this Court’s Minute Order (ECF No. 25).

6 In support of this Stipulation and Proposed Order, J.I. and the United States of America
7 state the following:

8 (1) Plaintiff J.I. filed a complaint on March 15, 2018. ECF No. 1.

9 (2) Plaintiff served the Complaint on the United States on March 19, 2018, rendering the
10 United States of America’s response to the Complaint due by May 18, 2018. *See* ECF No. 12; Fed.
11 R. Civ. P. 12(a)(2).

12 (3) Counsel for Plaintiff and counsel for Defendant filed a Joint Stipulation for an Order
13 under Civil L.R. 143 and 144 to extend Defendant’s deadline to respond to Plaintiff’s Complaint.
14 ECF No. 20. This Court ordered Defendant to file a responsive pleading to the Complaint on or
15 before June 8, 2018. ECF No. 21.

16 (4) Defendant filed a Notice of Motion and Motion to Dismiss on June 8, 2018. ECF No.
17 24. Defendant’s Motion argues that Plaintiff’s fourth cause of action is barred by the discretionary
18 function exception to the Federal Tort Claims Act (“FTCA”).

19 (5) Under Civil L.R. 230, Plaintiff’s opposition to the motion would be due June 25, 2018,
20 no less than 14 days preceding the currently-noticed hearing date of July 9, 2018.

21 (6) Plaintiff seeks limited discovery relevant to the discretionary function exception to
22 oppose Defendant’s Motion.

23 (7) Due to Defendant’s pending Motion, this Court reset the Mandatory Scheduling
24 Conference from June 28, 2018 to September 4, 2018. ECF No. 5.

25 THEREFORE, the Parties stipulate to and request that the Court order the following
26 schedule:

27 (a) Defendant’s Motion will be stayed to allow the parties to conduct limited discovery.
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1 (b) The parties may engage in limited discovery, relevant to whether the discretionary
2 function exception to the FTCA bars Plaintiff's fourth cause of action, until **August 17, 2018**.

3 (c) Plaintiff will file her amended complaint or inform Defendant that Plaintiff will rely on
4 her initial Complaint (ECF No. 1) by **August 31, 2018**.

5 (d) Defendant may file a new motion, re-notice the original motion (ECF No. 24), or
6 answer the Complaint by **September 14, 2018**.

7 (e) All other discovery is stayed pending resolution of Defendant's discretionary function
8 exception motion. The deadlines for the Rule 26(f) conference, Joint Scheduling Report, and the
9 Mandatory Scheduling Conference are continued to a date convenient to the Court's calendar.

10 Respectfully submitted,

11 AMERICAN CIVIL LIBERTIES UNION
12 FOUNDATION OF NORTHERN CALIFORNIA,
13 INC.

14 By: /s/ Angélica H. Salceda
15 Angélica H. Salceda
16 Attorneys for Plaintiff J.I.

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McGREGOR W. SCOTT
United States Attorney

By: /s/ Philip A. Scarborough

Philip A. Scarborough
Assistant United States Attorney

ORDER

Good cause having been shown, the Parties' stipulation is approved. The Clerk of Court is directed to administratively terminate the pending motion to dismiss, ECF No. 24, subject to re-noticing by Defendant. The hearing on that motion, currently set for July 9, 2018, is VACATED. IT IS SO ORDERED.

Dated: June 25, 2018

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