

GWILLIAM, IVARY, CHIOSSO, CAVALLI & BREWER

ATTORNEYS AT LAW

A Professional Corporation

P.O. Box 2079, Oakland, CA 94604-2079

1 J. Gary Gwilliam, Esq. (State Bar No. 33430)
 Randall E. Strauss, Esq. (State Bar No. 168363)
 2 Robert J. Schwartz, Esq. (State Bar No. 254778)
 Jayme L. Walker, Esq. (State Bar No. 273159)
 3 GWILLIAM, IVARY, CHIOSSO, CAVALLI & BREWER
 1999 Harrison Street, Suite 1600
 4 Oakland, CA 94612-3528
 Telephone: (510) 832-5411
 5 Facsimile: (510) 832-1918
 Email: ggwilliam@giccb.com
 6 rstrauss@giccb.com
 rschwartz@giccb.com
 7 jwalker@giccb.com

8 Attorneys for Plaintiffs
 GEORGIA DEFILIPPO AND CHRISTINA DEFILIPPO

10 UNITED STATES DISTRICT COURT
 11 EASTERN DISTRICT OF CALIFORNIA

14 GEORGIA DEFILIPPO AND CHRISTINA
 DEFILIPPO,

15 Plaintiffs,

16 vs.

17 COUNTY OF STANISLAUS, CITY OF
 MODESTO, CITY OF TURLOCK, CITY
 18 OF CERES, BIRGIT FLADAGER,
 MARLISSA FERREIRA, KIRK BUNCH,
 19 STEVE JACOBSON, DALE LINGERFELT,
 FROILAN MARISCAL, LLOYD
 20 MACKINNON, JON EVERS, DEREK
 PERRY, CORY BROWN, GREG JONES,
 21 TIMOTHY REDD, KENNETH
 BARRINGER, FRANK NAVARRO, and
 22 DOES 1-10, inclusive,

23 Defendants.

Case No. 1:18-CV-00496-AWI-EPG

**STIPULATION AND ORDER TO
 STAY CIVIL ACTION PENDING
 RESOLUTION OF CRIMINAL
 PROCEEDINGS**

(ECF No. 31)

25 Plaintiffs GEORGIA DEFILIPPO and CHRISTINA DEFILIPPO (collectively,
 26 "Plaintiffs") and defendants COUNTY OF STANISLAUS, CITY OF MODESTO, CITY OF
 27 TURLOCK, BIRGIT FLADAGER, MARLISSA FERREIRA, KIRK BUNCH, STEVE
 28 JACOBSON, DALE LINGERFELT, FROILAN MARISCAL, LLOYD MACKINNON, JON

1 EVERS, CORY BROWN, GREG JONES, TIMOTHY REDD, KENNETH BARRINGER, and
2 FRANK NAVARRO (collectively, the “Parties”), through their respective counsel, hereby agree
3 and stipulate as follows:

4 1. Plaintiffs filed the complaint in this action on April 10, 2018.

5 2. A related criminal case involving some of the same facts and witnesses as the
6 present action is pending in Stanislaus County Superior Court, which will implicate and hinder
7 discovery in the present action.

8 3. On July 11, 2018, the Parties filed a Stipulation and Proposed Order Staying the
9 Civil Action for ninety (90) days to allow resolution of the criminal matter.

10 4. On September 12, 2018, the Parties filed a Second Stipulation and Proposed
11 Order Staying the Civil Action for ninety (90) days to allow resolution of the criminal matter.

12 5. On January 2, 2019, the Parties filed a Third Stipulation and Proposed Order
13 Staying the Civil Action for ninety (90) days to allow resolution of the criminal matter.

14 6. On March 26, 2019, the Parties filed a Fourth Stipulation and Proposed Order
15 Staying the Civil Action for ninety (90) days to allow resolution of the criminal matter.

16 7. The ninety (90) day Stay, which was signed by the Court on March 26, 2019, is
17 set to expire, with the hearing on defendants City of Turlock, Timothy Redd, and Frank
18 Navarro’s (“Turlock Defendants”) Motion to Dismiss set for August 26, 2019.

19 8. However, the criminal case is still pending in the Stanislaus County Superior
20 Court.

21 9. Accordingly, the Parties agree that the present action should be stayed for an
22 additional ninety (90) days to allow resolution of the criminal case.

23 10. The hearing on the Turlock Defendants’ Motion to Dismiss, presently set for
24 August 26, 2019, at 1:30 p.m. before District Judge Anthony W. Ishii shall be vacated and reset
25 to December 2, 2019, at 1:30 p.m. or will be held on _____.

26 11. The deadline for Defendants City of Modesto, Jon Evers, County of Stanislaus,
27 Birgit Fladager, Marlissa Ferreira, Kirk Bunch, Steve Jacobson, Dale Lingerfelt, Froilan
28 Mariscal, Lloyd Mackinnon, Cory Brown, Greg Jones and Kenneth Barringer to file a responsive

1 pleading to Plaintiffs' complaint shall be set to sixty (60) days after the stay is lifted.

2 12. The initial mandatory scheduling conference will be set for as soon as practicable
3 after the parties notify the court that the criminal proceedings have been resolved.

4 IT IS SO STIPULATED.

5 DATE: June 24, 2019

GWILLIAM, IVARY, CHIOSSO, CAVALLI & BREWER

/s/ Jayme L. Walker

J. Gary Gwilliam
Randall E. Strauss
Robert J. Schwartz
Jayme L. Walker
Attorneys for Plaintiffs
GEORGIA DEFILIPPO AND CHRISTINA
DEFILIPPO

11 DATE: June 24, 2019

MEYERS NAVE RIBACK SILVER & WILSON

/s/ David Mehretu (as authorized on 6/24/2019)

Deborah J. Fox
David Mehretu
Robert S. Moutrie
Attorneys for Defendants
CITY OF MODESTO AND JON EVERS

17 DATE: June 24, 2019

ARATA, SWINGLE, VAN EGMOND & GOODWIN

/s/ Bradley J. Swingle (as authorized on 6/24/2019)

Bradley J. Swingle
Amanda J. Heitlinger
Attorneys for Defendants
CITY OF TURLOCK, TIMOTHY REDD AND
FRANK NAVARRO

28

1 DATE: June 24, 2019

PORTER SCOTT, APC

2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

/s/ John R. Whitefleet (as authorized on 6/24/2019)

John R. Whitefleet
Attorneys for Defendants
COUNTY OF STANISLAUS, BIRGIT FLADAGER,
MARLISSA FERREIRA, KIRK BUNCH, STEVE
JACOBSON, DALE LINGERFELT, FROILAN
MARISCAL, LLYOD MACKINNON, CORY
BROWN, GREG JONES AND KENNETH
BARRINGER

1 **ORDER**

2 Pursuant to the stipulation of the parties (ECF No. 31) and finding good cause exists,
3 IT IS ORDERED.

4 1. This action is STAYED for ninety (90) days.

5 2. The hearing on the motion to dismiss filed by defendants City of Turlock,
6 Timothy Redd, and Frank Navarro, presently set for August 26, 2019, at 1:30 p.m., before
7 District Judge Anthony W. Ishii is vacated and reset to **December 2, 2019, at 1:30 p.m.**, or as
8 soon thereafter as counsel may be heard.

9 3. The deadline for Defendants City of Modesto, Jon Evers, County of Stanislaus,
10 Birgit Fladager, Marlissa Ferreira, Kirk Bunch, Steve Jacobson, Dale Lingerfelt, Froilan
11 Mariscal, Lloyd Mackinnon, Cory Brown, Greg Jones and Kenneth Barringer to file a responsive
12 pleading to Plaintiffs' complaint, is reset to sixty (60) days after the stay is lifted.

13 4. The initial mandatory scheduling conference in Courtroom 10 before Magistrate
14 Erica P. Grosjean shall be set as soon as practicable after the parties notify the court that the
15 criminal proceedings have been resolved.

16
17 IT IS SO ORDERED.

18 Dated: **June 25, 2019**

19 /s/ Erica P. Grosjean
20 UNITED STATES MAGISTRATE JUDGE
21
22
23
24
25
26
27
28