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9 IN THE UNITED STATES DISTRICT COURT
10 FOR THE EASTERN DISTRICT OF CALIFORNIA
11 FRESNO DIVISION

12
13 **DANA SMITHEE, et al.,**

14 Plaintiffs,

15 v.

16 **CA CORRECTIONAL INSTITUTION,**
17 **et al.,**

18 Defendants.
19

Case No. 1:19-cv-00004 LJO JLT

**STIPULATION FOR CONTINUANCE
OF HEARING ON MOTION TO
DISMISS AND CONTINUANCE OF
SCHEDULING CONFERENCE;
[PROPOSED] ORDER**

(Doc. 13)

20 Defendants' motion to dismiss in this matter is set for hearing on March 28, 2019 at 9:30
21 a.m. (ECF No. 12.) Plaintiff's counsel is unavailable to appear for the hearing at that time, and
22 has requested that Defendants stipulate to a continuance of the hearing date and the filing date for
23 Plaintiff's opposition. Under Local Rule 143 and 230(f), the parties, through their counsel of
24 record, therefore agree to and request a continuance of the hearing to May 2, 2019 at 9:30 a.m.,
25 with Plaintiff's opposition due April 11 and Defendants' reply due April 25, 2019.

26 In addition, a scheduling conference is set for March 28, 2019 at 8:30 a.m. (Order Setting
27 Scheduling Conference, ECF No. 6.) A scheduling order may be modified upon a showing of
28 good cause and by leave of Court. Fed. R. Civ. P. 6(b)(1)(A), 16(b)(4); *see also Johnson v.*

1 *Mammoth Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir. 1992). Here, the scheduling conference
2 would be more productive if it were held after the motion to dismiss is decided. The parties
3 therefore agree to and request that the scheduling conference be continued to May 29, 2019 at
4 8:30 a.m.

5 The parties have not sought continuances of these dates before, and the continuances are
6 not being sought for any improper purpose.

7 Based on the foregoing, the parties stipulate as follows: that the hearing on Defendants'
8 motion to dismiss, previously set for March 28, 2019, at 9:30 a.m., be continued to May 2, 2019,
9 at 9:30 a.m; that Plaintiff's opposition to the motion to dismiss be due no later than April 11,
10 2019; that Defendants' reply be due no later than April 25, 2019; and that the scheduling
11 conference, previously set for March 28, 2019, at 8:30 a.m., be continued to May 29, 2019 at 8:30
12 a.m.

13
14 Dated: March 4, 2019

Willoughby Brod, LLP

15 */s/ Gregory J. Brod (as authorized 3/4/2019)*

16 Gregory J. Brod
17 *Attorneys for Plaintiffs Dana Smithee and*
18 *E.M., a minor by and through guardian ad*
litem Jennifer Montes

19 Dated: March 4, 2019

Respectfully submitted,

20 XAVIER BECERRA
21 Attorney General of California
22 JON S. ALLIN
23 Supervising Deputy Attorney General

24 */s/ Jeremy Duggan*

25 JEREMY DUGGAN
26 Deputy Attorney General
27 *Attorneys for Defendants*
28 *State of California and R. Litt-Stoner*

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[Proposed] ORDER

Based upon the stipulation of counsel, the Court ORDERS:

1. The stipulation to continue the scheduling conference and the motion to dismiss (Doc. 13) is GRANTED IN PART;
2. The hearing on the defendants' motion to dismiss is continued to May 2, 2019, at 9:30 a.m. The plaintiff's opposition to the motion to dismiss is due no later than April 11, 2019, and the defendants' reply is due no later than April 25, 2019;
3. The scheduling conference is continued to May 23, 2019 at 8:45 a.m.

IT IS SO ORDERED.

Dated: March 5, 2019

/s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE