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8
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.

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

**STIPULATION TO EXTEND TIME TO
RESPOND TO SECOND AMENDED
COMPLAINT; [PROPOSED] ORDER**

(Doc. 24)

19
20 The Court has ordered that Defendants in this matter respond to the Second Amended
21 Complaint within 21 days of its filing. (ECF No. 25.) Plaintiffs filed the Second Amended
22 Complaint on May 24, 2019. (ECF No. 26.)

23 Defendant Litt-Stoner is the only Defendant to appear in this matter, her response to the
24 Second Amended Complaint is therefore due June 14, 2019. Defendant Litt-Stoner's counsel has
25 informed Plaintiffs' counsel, and now informs the Court, that he has a long-planned vacation
26 scheduled for June 7-16.

27 The four other Defendants (Narayn, Seymour, Nesson, and Celosse) have not yet been
28 served with any complaint or summons in this matter. Plaintiffs have requested that Defendant

1 Litt-Stoner's counsel accept service. Defendant Litt-Stoner's counsel responded that he has not
2 yet confirmed that he will be representing those four Defendants, and so he cannot accept service
3 at this point.

4 In view of the fact that four of the five named Defendants have not yet been served, and in
5 view of defense counsel's planned vacation, the parties hereby stipulate and agree as follows:

6 (1) Defendant Litt-Stoner's response to Plaintiff's Second Amended Complaint shall be
7 due June 24, 2019;

8 (2) The remaining Defendants' responses shall be due after service, in accordance with
9 the Federal Rules of Civil Procedure.

10 Adoption of this stipulation will not cause significant delay in the case or prejudice to any party.
11 The proposed due date for Litt-Stoner's response is only four days after the response date that
12 would have resulted had Plaintiffs filed the Second Amended Complaint on May 30, 2019, as
13 contemplated by the Court's order. There have been no previous extensions of time sought for
14 this filing deadline.

15
16 Dated: June 3, 2019

Willoughby Brod, LLP

17 */s/ Gregory J. Brod (as authorized 6/3/2019)*

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

21 Dated: June 3, 2019

XAVIER BECERRA
Attorney General of California
JON S. ALLIN
Supervising Deputy Attorney General

22
23 */s/ Jeremy Duggan*

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

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[Proposed] ORDER

The Court notes that the previous stipulation (Doc. 25), related to the parties' agreement to allow the plaintiff to file a second amended complaint, was binding only on the parties who signed the stipulation—the plaintiffs and defendant Litt-Stoner. Consequently, the Courts order applied only to those parties, which are the only parties over whom it has jurisdiction currently.

Thus, the Court **ORDERS**:

1. Defendant Litt-Stoner SHALL file the responsive pleading no later than June 24, 2019;
2. The request as to the remaining unserved defendants is DENIED as UNRIPE.

IT IS SO ORDERED.

Dated: June 5, 2019

/s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE