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

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13 **Carlos Perfino and Jess Zuranich,**  
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15 Plaintiffs,  
16  
17 **v.**  
18  
19 **State of California, Department of Alcoholic**  
**Beverage Control [A.B.C.], Ex Officio (sic)**  
**Steve Hardy, Director; Elizabeth Grazia;**  
**Lori Ajax, Juan G. Ayala, Heriberto Garcia,**  
20 Defendants.

2:09-CV-00833-GEB-KJM

**REQUEST AND STIPULATION TO  
EXTEND DEADLINES AND ORDER**

Action Filed: March 26, 2009

21 **I. INTRODUCTION**

22 Plaintiffs Carlos Perfino and Jess Zuranich bring this civil rights action arising out of the  
23 denial of application for liquor license by California Alcohol Beverage Control employees.  
24 Plaintiffs and Defendants Steve Hardy, Lori Ajax and Elizabeth Gavia hereby file this Request  
25 and Stipulation to Extend Deadlines because there is a pending motion to dismiss the amended  
26 complaint scheduled December 21, 2009, and the parties are unable to complete discovery by the  
27 discovery cut-off date of January 4, 2010, given the number of witnesses in this matter.  
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1 **II. PROCEDURAL BACKGROUND**

2 Plaintiffs filed a complaint on March 26, 2009, alleging the following claims:

3 Claim One – a §1983 claim against the state, Alcohol Beverage Control (ABC) and its  
4 employees for violation of due process, equal protection and the Taking Clause of the Fifth  
5 Amendment;

6 Claim Two – a state supplemental claim for interference with contractual relations and  
7 intentional inducement of breach of contract against the state, ABC employees Hardy, Gavia and  
8 Ajax;

9 Claim Three – a state supplemental claim against the state, ABC and its employees for  
10 inverse condemnation under the California Constitution;

11 Claim Four – injunctive and declaratory relief against the state, ABC and its employees  
12 based on state law.

13 On April 21, 2009, Defendants moved to dismiss the original Complaint. The hearing on  
14 motion to dismiss was June 8, 2009.

15 On June 23, 2009, the court issued a scheduling order with a discovery cut-off date of  
16 January 4, 2010; dispositive motion cut-off date of March 8, 2010 and trial date of August 30,  
17 2010.

18 On October 6, 2009, the court granted and denied in part the State Defendants' motion to  
19 dismiss. Pursuant to the order on motion to dismiss, Plaintiffs were granted leave to amend.

20 On October 15, 2009, Plaintiffs filed a First Amended Complaint alleging the following  
21 claims:

22 Claim One – a §1983 claim against Hardy, Ajax and Gavia for violation of substantive and  
23 procedural due process, equal protection and the Taking Clause of the Fifth Amendment;

24 Claim Two – a state supplemental claim for interference with contractual relations and  
25 intentional inducement of breach of contract against Gavia and Ajax;

26 Claim Three – a state supplemental claim against Hardy, Ajax and Gavia for inverse  
27 condemnation under the California Constitution;

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1 Claim Four – injunctive and declaratory relief against Hardy, Ajax and Gavia based on state  
2 law;

3 Claim Five – negligence against Hardy, Ajax and Gavia.

4 Defendants filed a motion to dismiss the amended complaint. The hearing is scheduled  
5 December 21, 2010.

6 **III. GOOD CAUSE EXHIBITS TO VACATE THE SCHEDULING DEADLINES**

7 Defendants ABC, Steve Hardy, Lori Ajax and Elizabeth Gavia served Interrogatories and  
8 Request for Production of Documents on plaintiffs on August 26, 2009. Plaintiffs requested and  
9 were granted extensions to respond to discovery. On November 6, 2009, plaintiffs served  
10 responses to Interrogatories and Request for Production of Documents. Plaintiffs identify 23  
11 witnesses, in addition to the parties, who have knowledge of the facts giving rise to their claims  
12 and damages. In addition, plaintiffs identified 42 exhibits which support their claims and  
13 damages against defendants.

14 In order to schedule and take the depositions of the witnesses in this action, the parties need  
15 additional time beyond the discovery cut-off date of January 4, 2010. In addition, the pending  
16 motion to dismiss may eliminate some or all causes of action against defendants.

17 The parties have diligently worked to meet the deadlines outlined in the court’s June 23,  
18 2009, scheduling order. Without additional time for discovery, the parties cannot adequately  
19 prepare for trial of this matter. Accordingly, good cause exists to vacate the scheduling deadlines.

20 The parties hereto agree and stipulate to the following:

- 21 1. The scheduling order may be modified as follows:  
22 2. Extend the discovery cut-off to March 30, 2010;  
23 3. Extend the date for dispositive motions to July 15, 2010;

24 Dated: November 12, 2009

Franck & Associates

25  
26 /s/ Herman Franck

27 Herman Franck, Esq., Attorney for Plaintiffs  
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Dated: November 12, 2009

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Attorney General of California  
STEVEN M. GEVERCER  
Supervising Deputy Attorney General

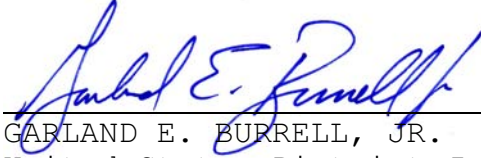
*/s/ Catherine Woodbridge Guess*

CATHERINE WOODBRIDGE GUESS  
Deputy Attorney General  
*Attorneys for Defendants Steve Hardy, Lori  
Ajax and Elizabeth Gavia*

IT IS HEREBY ORDERED THAT

1. The June 23, 2009, scheduling order is modified as follows:
2. The discovery cut-off is March 30, 2010;
3. The last hearing date for law and motion is May 17, 2010, at 9:00 a.m.
4. The pretrial conference is rescheduled for July 19, 2010, at 1:30 p.m. A joint pretrial statement is to be filed seven days prior to the conference.

Dated: 11/23/09

  
GARLAND E. BURRELL, JR.  
United States District Judge

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