

1 BRUCE A. KILDAY, ESQ., SB No. 066415
Email: bkilday@akk-law.com

2 KEVIN J. DEHOFF, ESQ., SB No. 252106
Email: kdehoff@akk-law.com

3 **ANGELO, KILDAY & KILDUFF, LLP**
4 Attorneys at Law
601 University Avenue, Suite 150
5 Sacramento, CA 95825
Telephone: (916) 564-6100
6 Telecopier: (916) 564-6263

7 JOHN M. LUEBBERKE, ESQ., SBN 164893
Email: john.luebberke@stocktonca.gov
8 425 N. El Dorado Street, 2nd Floor
9 Stockton, CA 95202
Telephone: (209) 937-8333
10 Telecopier: (209) 937-8898

11 Attorneys for Defendants OFFICER ERIC AZARVAND and OFFICER GREGORY DUNN

12 JOHN L. BURRIS, ESQ., SB No. 69888
Email: john.burris@johnburrislaw.com
13 BENJAMIN NISENBAUM, SB No. 222173
Email: bnisenbaum@hotmail.com

14 **LAW OFFICES OF JOHN BURRIS**
15 7677 Oakport St., Suite 1120
16 Oakland, CA 94621
Phone: (510) 839-5200
17 Fax: (510) 839-3882

18 Attorneys for Plaintiff
DIONNE SMITH-DOWNS and JAMES RIVERA, SR.
19

20 **UNITED STATES DISTRICT COURT**
21 **EASTERN DISTRICT OF CALIFORNIA**

23 DIONNE SMITH-DOWNS, et al.,) Case No.: 2:10-cv-02495 MCE-CKD
24)
Plaintiff,) **STIPULATION TO CONTINUE TRIAL**
25) **DATE**
vs.)
26)
CITY OF STOCKTON, et al.,)
27)
Defendants.)
28

1
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

WHEREAS this case is scheduled for trial on September 10, 2018,

WHEREAS counsel for Plaintiffs advised he has a conflict with a trial in the Northern District that prevents him from going forward on September 10, 2018 in this matter,

WHEREAS counsel for Defendants do not have any objection to selecting a new trial date,

The parties, and each of them, hereby request that the trial date in this matter be vacated and the Court schedule a Status Re: Trial Setting hearing to select a new date that is convenient for the Court and all parties.

Dated: June 22, 2018

ANGELO, KILDAY & KILDUFF, LLP

/s/ Bruce A. Kilday

By: _____

BRUCE A. KILDAY
Attorneys for Defendants
OFFICER ERIC AZARVAND and
OFFICER GREGORY DUNN

Dated: June 28, 2018

LAW OFFICES OF JOHN BURRIS

/s/ Ben Nisenbaum

(as authorized on 6.22.18)

By: _____

BEN NISENBAUM
Attorneys for Plaintiffs


1
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

ORDER

The Court has reviewed the parties' request, which is lacking any detail as to why the trial in the Northern District of California should take precedence over the trial of this action. This case will be eight years old when trial commences, and the Court has already blocked off fourteen (14) days of its highly impacted trial schedule to adjudicate this matter. Finding another 14-day period in which this Court is available, as the parties have been advised, will take this case well into 2019, if not beyond. Stated another way, if this trial does not go now, there is no telling when the Court will be able to confirm another date. Given that unfortunate reality, only on the most compelling showing of good cause will this Court be willing to vacate the current trial date. The parties are of course reminded that they are free to consent to try this case before the magistrate judge on an alternative date or to participate in either a settlement conference or the Court's VDRP program.¹ In the meantime, the parties' stipulated request to continue is hereby DENIED without prejudice to refiling pursuant to the foregoing.

IT IS SO ORDERED.

Dated: June 28, 2018


MORRISON C. ENGLAND, JR.
UNITED STATES DISTRICT JUDGE

¹ The parties are also, of course, invited to contact their congressional representatives regarding the dearth of judgeships in this district. Absent the creation of new judgeships, the Court's ability to be flexible with its trial calendar is negligible.