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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

PHYLLIS GRENZEBACH as a
surviving heir of Robert
Anderson, and KATHLEEN
RYAN as a surviving heir
of Michael Mergen, on
behalf of themselves and a
class of similarly-situated
persons,

No. 2:11-cv-00197-MCE-DAD

Plaintiffs,

v.

ORDER STAYING ACTION

EHC Management, LLC;
Evergreen at Arvin, LLC;
Evergreen at Chico, LLC;
Evergreen at Fullerton, LLC;
Evergreen at Lakeport, LLC;
Evergreen at Oroville, LLC;
Evergreen at Petaluma, LLC;
Evergreen at Salinas, LLC;
Evergreen at Tracy, LLC;
Evergreen at Heartwood Avenue,
LLC; Evergreen at Springs
Road, LLC; and DOES 1 through
100, inclusive,

Defendants.

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1 Through the present action, Plaintiffs allege noncompliance
2 with California's minimum staffing requirements for skilled
3 nursing facilities. Defendants previously brought to the Court's
4 attention a case, Wehlage v. EmpRes Healthcare, Inc., et al.,
5 N.D.Cal. Case No. 4:10-cv-058390-CW filed in 2010 prior to
6 commencement of the instant lawsuit. By Order filed May 3, 2011,
7 this Court ordered the present action stayed pending disposition
8 of Wehlage. Both cases involve similar class-wide claims that
9 inadequate nursing levels violated residents' rights under
10 California Business and Professions Code § 1430(b), and both
11 allege violations of California Business and Professions Code
12 §§ 17200 et seq. and 17500 et seq. The Defendants in both
13 lawsuits also appear to be markedly similar. Moreover, according
14 to Plaintiffs, depending on how Wehlage proceeds in the Northern
15 District, they may opt to join their claims there and dismiss the
16 present case altogether.

17 Now before the Court is a second motion, filed on behalf of
18 Plaintiffs, seeking a further stay of this matter. The terms of
19 the previous stay held this case in abeyance until certain
20 motions to dismiss in Wehlage were adjudicated. Although an
21 initial decision on those motions to dismiss was reached on
22 May 25, 2011, the court permitted the filing of a First Amended
23 Complaint and a second round of motions attacking that First
24 Amended Complaint ensued. Counsel for Plaintiffs have advised
25 this Court that the September 22, 2011 hearing on those motions
26 has recently been vacated given the parties' agreement to submit
27 the matter to mediation in the meantime.

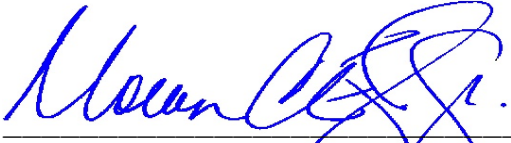
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1 Given the unsettled status of the Wehlage action, as well as
2 the real potential that the disposition of that claim could
3 profoundly affect how Plaintiffs opt to proceed forward with this
4 matter, the Court agrees that further stay of this case is
5 warranted. Plaintiffs' Motion to Continue Court-Ordered Stay
6 (ECF No. 43) is accordingly GRANTED.¹

7 The parties are directed to notify the Court not later than
8 ten (10) days following the date a ruling has been made by the
9 Northern District on the motions to dismiss now being held in
10 abeyance pending mediation in the Wehlage matter. The parties
11 are further directed to attach a copy of the Northern District's
12 ruling to their notification in that regard. Finally, in the
13 event that no ruling has been made on the Wehlage motions, the
14 parties are directed to file a Status Report not later than sixty
15 (60) days following the date of this Order to advise this Court
16 of where matters stand.

17 IT IS SO ORDERED.

18 Dated: October 21, 2011

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21 MORRISON C. ENGLAND, JR.
22 UNITED STATES DISTRICT JUDGE
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27 ¹ Because oral argument will not be of material assistance,
28 the Court ordered this matter submitted on the briefs. E.D. Cal.
Local Rule 230(h).