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8 Attorneys for Defendants COUNTY OF SUTTER; COUNTY OF YUBA; J.PAUL PARKER;
9 DAVID SAMSON; NORMAN BIDWELL; JOHN S. ZIL; CHRISTOPHER BARNETT; BOBBY
10 JOE LITTLE; DAVID CALAPINI; SHAUN FLIEHMAN; RAINBOW CRANE; KATY MULLIN;
11 DONICE MCGINNIS; LEWIS MCELFFRESH; BALJINDER RAI

12 **UNITED STATES DISTRICT COURT**

13 **EASTERN DISTRICT OF CALIFORNIA**

14 ESTATE OF RODNEY LOUIS BOCK,
15 deceased, by and through CYNDIE DENNY
16 BOCK, as Administrator; KIMBERLY
17 BOCK; KELLIE BOCK HILLARY BOCK;
18 M.B. minor through her mother and guardian
19 ad litem Cyndie Denny Bock; LAURA LYNN
20 BOCK; and ROBERT BOCK,

CASE NO: 2:11-cv-00536-MCE-KJN

21 **DEFENDANTS' EX PARTE APPLICATION**
22 **TO MODIFY SCHEDULING ORDER**
23 **CONTINUING SETTLEMENT**
24 **CONFERENCE; ORDER**

25 Plaintiffs,

26 vs.

27 COUNTY OF SUTTER; COUNTY OF
28 YUBA; J. PAUL PARKER, Sutter County
Sheriff's Department Sheriff; DAVID
SAMSON, Sutter County Jail Division
Commander; NORMAN BIDWELL, Sutter
County Jail Corrections Lieutenant; JOHN S.
ZIL; CHRISTOPHER BARNETT; BOBBY
JOE LITTLE; DAVID CALAPINI; SHAUN
FLIEHMAN; RAINBOW CRANE; KATY
MULLIN; DONICE MCGINNIS; LEWIS
MCELFFRESH; BALJINDER RAI; and Does
1 through XL inclusive,

Defendants.

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I.

APPLICATION

Defendants COUNTY OF SUTTER, COUNTY OF YUBA, J.PAUL PARKER, DAVID SAMSON, NORMAN BIDWELL, JOHN S. ZIL, CHRISTOPHER BARNETT, BOBBY JOE LITTLE, DAVID CALAPINI, SHAUN FLIEHMAN, RAINBOW CRANE, KATY MULLIN, DONICE MCGINNIS, LEWIS MCELFRISH, and BALJINDER RAI (hereinafter collectively “Defendants”) hereby apply for an order modifying the Pretrial Scheduling Order dated March 28, 2013 (Docket Entry No. 69) to continue the Settlement Conference currently scheduled for July 25, 2013, before Magistrate Judge Edmund Brennan.

Defendants respectfully submit that good cause exists to continue the Settlement Conference. The Pretrial Scheduling Order dated March 28, 2013 was issued less than four months ago, and discovery deadlines are far in the future. Specifically, percipient witness discovery is to be completed by April 9, 2014; expert disclosures to be completed by June 9, 2014. The Final Pretrial Conference is set for December 18, 2014, and Trial is set for February 9, 2015. Moreover, Plaintiffs have conducted only two depositions, and only recently provided responses to written discovery to Defendants, which are being reviewed for their sufficiency. Accordingly, Defendants submit insufficient discovery has occurred to render a Settlement Conference meaningful at this stage in the proceedings, and/or would result in a waste of judicial resources at this time. Counsel for Plaintiffs refused to stipulate to a continuance of the Settlement Conference, and invited Defendants to move the court to do so.

Defendants submit a continuance of six (6) months would allow sufficient time to conduct discovery, evaluate same, and prepare for a meaningful Settlement Conference, and not affect any other dates. Based upon the foregoing, Defendants submit good cause exists to modify the Pretrial Scheduling Order dated March 28, 2013 (Docket Entry No. 69) to continue the Settlement Conference currently scheduled for July 25, 2013, before Magistrate Judge Edmund Brennan, to a date in early January 2014 at the Court’s convenience, and thus the Court should grant this Application.

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Respectfully submitted,
PORTER SCOTT
A Professional Corporation

By /s/ John R. Whitefleet
John R. Whitefleet
Attorney for Defendants

II.

DECLARATION OF JOHN R. WHITEFLEET

I, John R. Whitefleet, declare:

1. I am an attorney at law licensed to practice before all the courts in the State of California and the United States District Court, Eastern District of California and am a shareholder with the law firm of Porter Scott, a Professional Corporation, attorneys for Defendants in the above-titled matter.

2. The Pretrial Scheduling Order dated March 28, 2013 (Docket Entry No. 69) set a Settlement Conference for July 25, 2013, before Magistrate Judge Edmund Brennan. Percipient witness discovery is to be completed by April 9, 2014; expert disclosures by June 9, 2014. The Final Pretrial Conference is set for December 18, 2014, and Trial is set for February 9, 2015.

3. The Pretrial Scheduling Order dated March 28, 2013 was issued less than four months ago, and discovery deadlines are far in the future. Plaintiffs have conducted only two depositions, a jail inspection, and only recently provided responses to written discovery to Defendants on July 10, 2013, which are being reviewed for their sufficiency. I believe insufficient discovery has occurred to render a Settlement Conference meaningful at this stage in the proceedings, and/or would result in a waste of judicial resources at this time. In my estimation, an additional six months is necessary for the parties to conduct sufficient discovery and better evaluate the positions for a Settlement Conference.

4. On July 4, 2013 (at the jail inspection), and again on July 16, 2013, I suggested to counsel for Plaintiffs to continue the Settlement Conference. On July 16, 2013, counsel for Plaintiffs refused to stipulate to a continuance of the Settlement Conference, and invited Defendants to move the court to do so.

1 5. Accordingly, on behalf of Defendants, I respectfully request modification of the
2 Pretrial Scheduling Order dated March 28, 2013 to continue the Settlement Conference for July 25,
3 2013, before Magistrate Judge Edmund Brennan to a date convenient to the Court in early January
4 2014.

5 I declare under penalty of perjury under the laws of the State of California, that the foregoing
6 is true and correct and if called to testify as a witness in this matter I can and will testify competently
7 as to the matters of fact contained herein based upon my personal knowledge. Executed this 16th
8 day of July, 2013, at Sacramento, California.

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/s/ John R Whitefleet
John R. Whitefleet

ORDER

Good cause appearing, Defendants' Ex Parte Application (ECF No. 84) is GRANTED. The
Pretrial Scheduling Order dated March 28, 2013 (ECF No. 69) is modified as follows: the Settlement
Conference for July 25, 2013, before Magistrate Judge Edmund Brennan is vacated and rescheduled
for **January 9, 2014, at 10:00 a.m** in Courtroom 8.

IT IS SO ORDERED.

Date: July 23, 2013


MORRISON C. ENGLAND, JR., CHIEF JUDGE
UNITED STATES DISTRICT COURT