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13 Attorneys for Plaintiffs CHRISTIE ROGERS and SHAUNA ELDER

14 **UNITED STATES DISTRICT COURT**

15 **EASTERN DISTRICT OF CALIFORNIA**

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18 CHRISTIE ROGERS, individually and as the ) Case No.: 2:15-cv-01420-JAM-CMK  
19 heir and successor in interest of KEVIN )  
MCCOSHUM and SHAUNA ELDER, ) **STIPULATION AND ORDER**  
20 ) **MODIFYING THE PRETRIAL**  
Plaintiff, ) **SCHEDULING ORDER**

21 )  
22 vs. )  
23 )

23 NICHOLAS MORAWCZNSKI and )  
24 VISHWAS SHARMA, )  
25 Defendants. )

26  
27 COMES NOW THE PARTIES by and through their respective counsel and subject to the  
28 approval of this Court, hereby stipulate and respectfully request the following modifications to

1 this Court's Pretrial Scheduling Order of November 4, 2015 (Court's Docket No. 9), regarding  
2 the scheduling of this case:

- 3 • That the expert witness disclosure cut-off date currently set for August 19, 2016 be  
4 moved to September 16, 2016;
- 5 • That the rebuttal expert witness disclosure currently set for August 26, 2016 be moved to  
6 September 23, 2016;
- 7 • The trial currently set for March 20, 2017 be moved to a date convenient for the Court in  
8 or after May 2017;
- 9 • That the Final Pretrial Conference currently set for January 27, 2017 be moved to a date  
10 convenient for the Court in accordance with the new trial date.

11 The parties stipulate to and request this modification of the pretrial order as to the expert  
12 witness disclosures because Plaintiff Christie Rogers and Defendant Nicholas Morawcznski have  
13 become unavailable to be deposed before the expert disclosure deadline. There is good cause for  
14 this modification because the parties did not anticipate that this Plaintiff and Defendant would  
15 become unavailable for several weeks before the expert disclosure deadline. The parties are  
16 confident that the new dates for expert witness disclosures will provide all parties with adequate  
17 time to complete discovery and dispositive motions. The parties are *not* seeking an extension of  
18 the deadline to conduct discovery, which is scheduled for October 21, 2016, or the deadline to  
19 file a dispositive motion, which is scheduled for November 15, 2016.

20 The parties stipulate to and request this modification of the pretrial order as to the dates  
21 for the final pretrial conference and trial because defense counsel, Carrie McFadden, cannot  
22 attend the pretrial conference and trial as currently scheduled as she will be on maternity leave  
23 starting in January 2017. The parties submitted their availability for trial to this Court on  
24 October 30, 2015. Court's Docket No. 8, pp. 5-6. At that time, defense counsel was unaware  
25 that she would become pregnant and would be on maternity leave beginning in January 2017.  
26 Defense counsel's unavailability for the pretrial conference and trial as currently scheduled was  
27 confirmed by her physician on July 26, 2016. Her inability to attend the pretrial conference and  
28 trial was not caused by a lack of diligence in complying with the Court's Scheduling Order.

1 Mrs. McFadden anticipates taking three months of maternity leave and returning to work in early  
2 to mid-April 2017, depending on when her baby is born, her baby's health, and her health.  
3 Plaintiffs agree that accommodating maternity/paternity leave is an important social interest.

4 Defense counsel currently have trials scheduled to begin on February 17, 2017  
5 (*Shellabarger v. Dicharry, et al*, Eastern District Case No. 2:13-cv-00188-TLN-CMK) and on  
6 February 28, 2017 (*Huggins v. City of Rocklin, et al*, Eastern District Case No. 2:15-cv-01424-  
7 WBS-CKD). Defense counsel has filed a motion to continue the trial in the *Shellabarger* matter,  
8 which is scheduled for hearing on August 25, 2016. Eastern District Case No. 2:13-cv-00188-  
9 TLN-CMK, Docket No. 72. Defense counsel will file either a stipulation or a motion to continue  
10 the trial in the *Huggins* case as well. Thus, at this time defense counsel does not know when the  
11 trials in *Shellabarger* and *Huggins* (assuming the Court grants the requests to continue these  
12 trials) will commence. Defense counsel is also scheduled to start a trial on January 22, 2018 in  
13 *Coryell v. City of Oroville, et al.*, Eastern District Case No. 2:15-cv-00476-TLN-AC. Plaintiffs'  
14 counsel also is in trial beginning September 12, 2016 in *Banta v. Walnut Creek* (3:13-cv-00342  
15 CRB in the Northern District, and in mid-February, 2017 in *Trevino v. Cummins et al.* in the  
16 Complex Division of Los Angeles Superior Court (BC462323).

17 Dated: August 16, 2016

ANGELO, KILDAY & KILDUFF, LLP

18  
19 /s/ Carrie A. McFadden

By: \_\_\_\_\_

20 CARRIE A. McFADDEN  
21 Attorneys for Defendants  
22 NICHOLAS MORAWCZNSKI and  
VISHWAS SHARMA

23 Dated: August 16, 2016

SWANSON & PELUSO

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25 By: /s/ Larry A Peluso [authorized on 8/15/16]

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27 LARRY A. PELUSO  
28 Attorney for Plaintiffs  
CHRISTIE ROGERS and SHAUNA  
ELDER

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**ORDER**

THEREFORE it is so ordered that:

Jury Trial is continued to May 22, 2017 at 9:00 a.m.

Final Pretrial Conference is continued to April 7, 2017 at 10:00 a.m.

Joint Pretrial Statements shall be filed March 31, 2017.

Expert Witness Disclosures and Rebuttal Expert Witnesses shall be filed no later than September 16, 2016 and September 23, 2016.

**IT IS SO ORDERED.**

Dated: 8/16/2016

/s/ John A. Mendez  
JOHN A. MENDEZ  
United States District Court Judge