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 10 IN THE UNITED STATES DISTRICT COURT
 11 FOR THE EASTERN DISTRICT OF CALIFORNIA
 12 SACRAMENTO DIVISION

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 14 **MARIA AGUIRRE, as personal**
representative of the Estate of JONATHAN
 15 **VELARDE,**
 16 Plaintiff,
 17 v.
 18 **STATE OF CALIFORNIA; CALIFORNIA**
 19 **DEPARTMENT OF CORRECTIONS AND**
 20 **REHABILITATION; CALIFORNIA**
 21 **CORRECTIONAL CENTER; DONALD**
MAYDOLE; and DOES 1 through 100,
 22 **inclusive,**
 Defendants.

2:16-cv-01297-MCE-GGH

**STIPULATION TO EXTEND TIME TO
 CONFER UNDER FEDERAL RULE OF
 CIVIL PROCEDURE 26(F), TO OBJECT
 TO INITIAL PRETRIAL SCHEDULING
 ORDER, AND TO TAKE HEARING ON
 MOTION TO DISMISS OFF
 CALENDAR; ORDER THEREON**

Judge: Hon. Morrison C. England, Jr.
 Action Filed: June 9, 2016

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1 Plaintiffs and Defendants, through their undersigned counsel, stipulate to continue the
2 previously agreed upon time for a conference under Federal Rule of Civil Procedures 26(f), from
3 September 9, 2016 to October 31, 2016. The parties also stipulate to extend the deadline for
4 filing objections to the Initial Pretrial Scheduling Order to fourteen days after the Rule 26(f)
5 conference.

6 Defendants have filed a motion to dismiss under Federal Rule of Civil Procedure 12(b)(6)
7 in response to Plaintiffs' Complaint. Plaintiffs will file and serve a First Amended Complaint by
8 September 26, 2016. Defendants' responsive pleading to Plaintiffs' First Amended Complaint
9 will be filed and served by October 13, 2016.

10 If Plaintiffs file and serve an amended complaint by September 26, 2016, the parties
11 stipulate to take the November 17, 2016 hearing on Defendants' motion to dismiss off calendar.

12 Given the anticipated amendment, the parties, claims, and defenses are uncertain at this
13 time. This uncertainty precludes the parties from effectively preparing disclosures and discussing
14 the discovery issues outlined in Rule 26.

15 The current uncertainty also prevents the parties from determining whether any variance
16 in the deadlines outlined by the Initial Pretrial Scheduling Order (Order, June 13, 2016, ECF
17 No. 3) are warranted. All Defendants had been served by July 18, 2016, making objections to the
18 Initial Pretrial Scheduling Order due on September 19, 2016. The parties expect to have more
19 clarity on potential objections after the First Amended Complaint and responsive pleading have
20 been filed.

21 Additionally, Deputy Attorney General Maureen Onyeagbako will not be able to engage
22 in a Rule 26(f) conference during the week of October 10 because she will be out of the office to
23 prepare for trial in *Bryant v. Gallagher, et al.*, No. 1:11-cv-00446-BAM (PC) (E.D. Cal.). The
24 trial will begin on October 17, 2016, and is expected to last three to four days.

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1 Based on the foregoing, the parties stipulate to a new Rule 26(f) conference date of
2 October 31, 2016 and will file the Rule 26(f)(3) discovery plan and objections to the Initial
3 Pretrial Scheduling Order within fourteen days of the parties' conference.

4 **SO STIPULATED.**

5 Dated: September 15, 2016

Respectfully submitted,

6 KAMALA D. HARRIS
7 Attorney General of California
8 JON S. ALLIN
9 Supervising Deputy Attorney General

/s/ Maureen C. Onyeagbako

10 MAUREEN C. ONYEAGBAKO
11 Deputy Attorney General
12 *Attorneys for Defendants Maydole, State
of California, California Department of
Corrections and Rehabilitation, and
California Correctional Center*

13 Dated: September 15, 2016

Respectfully submitted,

14 LARRY RABINEAU
15 VIRGINIA NARIAN
16 Law Offices of Larry Rabineau

*/s/ Virginia Narian
(as authorized on September 15, 2016)*

17 VIRGINIA NARIAN
18 *Attorneys for Plaintiffs*

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1 **ORDER**

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3 In accordance with the parties' foregoing stipulation, and good cause appearing, the time
4 for the parties to confer under Federal Rule of Civil Procedure 26(f) is extended to October 31,
5 2016. The parties shall file the Rule 26(f)(3) discovery plan and objections to the Initial Pretrial
6 Scheduling Order within fourteen days of the Rule 26(f) conference.

7 If Plaintiffs file an amended complaint by September 26, 2016, the November 17, 2016
8 hearing on Defendants' motion to dismiss shall be taken off calendar.

9 **IT IS SO ORDERED.**

10 **Dated: September 21, 2016**

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12 MORRISON C. ENGLAND, JR.
13 UNITED STATES DISTRICT JUDGE
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