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10 IN THE UNITED STATES DISTRICT COURT
 11 FOR THE EASTERN DISTRICT OF CALIFORNIA
 12 SACRAMENTO DIVISION
 13

14 **JONATHAN VELARDE, by and through**
 15 **his successor in interest, MARIA**
 16 **AGUIRRE, MARIA AGUIRRE,**
 17
 18 **v.**
 19 **STATE OF CALIFORNIA; CALIFORNIA**
 20 **DEPARTMENT OF CORRECTIONS AND**
 21 **REHABILITATION; CALIFORNIA**
 22 **CORRECTIONAL CENTER; WARDEN**
 23 **ROBERT GOWER; DONALD**
 24 **MAYDOLE; and DOES 1 through 10,**
 25 **inclusive,**
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Plaintiff,

Defendants.

2:16-cv-01297-MCE-GGH

**JOINT STIPULATION TO CONTINUE
 HEARING ON MOTION TO DISMISS
 AMENDED COMPLAINT AND
 REQUEST TO STAY LITIGATION
 DEADLINES PENDING FINAL ORDER
 ON MOTION TO DISMISS;
 ORDER THEREON**

Judge: Hon. Morrison C. England, Jr.
 Trial Date: N/A
 Action Filed: June 9, 2016

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1 Plaintiff Maria Aguirre and Defendants State of California, California Department of
2 Corrections and Rehabilitation, California Correctional Center, and D. Maydole (collectively, the
3 “Stipulating Parties”), stipulate and request modification of the Initial Pretrial Scheduling Order
4 as follows:

5 1. Pending before the Court is Defendants’ motion to dismiss the Amended
6 Complaint, which is noticed for hearing on November 17, 2016. (Defs.’ Mot. to Dismiss,
7 Oct. 13, 2016, ECF No. 16.) Plaintiff’s counsel, Virginia Narian, has requested to continue the
8 hearing date because Plaintiff’s November 3 deadline to respond to the motion conflicts with her
9 pre-existing November 2 deadline to file an opposition to a motion for summary judgment in
10 *Arnita Haley v. American Medical Response*, Case No. BC585596 (Los Angeles Cnty.). The
11 Stipulating Parties agree that the hearing date should be continued to the next available date of
12 December 1, 2016, in order to accommodate Ms. Narian’s schedule.

13 2. The parties also agree to modify the briefing schedule for the motion to dismiss
14 because the reply brief deadline falls on a state holiday and defense counsel will be out of the
15 office and unavailable. Conflicts with the Thanksgiving holiday and defense counsel’s pre-
16 existing, pre-paid travel plans further constrain her availability between November 18 and
17 November 24. Thus, the parties agree that Plaintiff shall file her opposition, if any, by
18 November 9, and Defendants shall file their reply by November 18.

19 3. Additionally, Plaintiff’s counsel has represented that a purported eyewitness to the
20 prison riot alleged in this case, former inmate Alexander Santos, will be moving out of the State
21 of California by November 21, 2016, and is not expected to return. Thus, Ms. Narian requests an
22 accommodation to take Mr. Santos’s deposition before November 21 and before finalizing a
23 scheduling order in this case. In exchange, Plaintiff stipulates to stay all deadlines under Federal
24 Rules of Civil Procedure 16 and 26, and under the Initial Pretrial Scheduling Order until after the
25 Court issues a final order on Defendants’ motion to dismiss the Amended Complaint.
26 Defendants’ agreement to participate in Santos’s deposition does not constitute a willingness to
27 begin any other discovery in this case. Additionally, this stipulation does not constitute a waiver
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1 of objections to the Initial Pretrial Scheduling Order.

2 4. The Stipulating Parties further agree that there is good cause to continue all
3 deadlines under Rules 16 and 26 and the Initial Pretrial Scheduling Order because the parties,
4 claims, and defenses in this case remain uncertain in light of Defendants' motion to dismiss. This
5 uncertainty precludes the parties from effectively preparing disclosures and discussing the
6 discovery issues outlined in Rules 16 and 26. Additionally, Defendants' motion asserts qualified
7 immunity, which should be resolved before imposing the expense and burden of discovery.

8 5. Based on the foregoing, the Stipulating Parties request that the Court stay all
9 deadlines under Rules 16 and 26 and the Initial Pretrial Scheduling Order until after the Court
10 issues a final order on Defendants' motion to dismiss. In the event that this case is not dismissed
11 in its entirety, the Stipulating Parties request that new deadlines be set no sooner than twenty-one
12 days following service of the final order on the motion to dismiss.

13 **SO STIPULATED.**

14 Dated: October 28, 2016

Respectfully submitted,

15 KAMALA D. HARRIS
16 Attorney General of California
17 JON S. ALLIN
Supervising Deputy Attorney General

18 */s/ Maureen Onyeagbako*

19 MAUREEN C. ONYEAGBAKO
20 Deputy Attorney General
21 *Attorneys for Defendants Maydole, State
of California, California Department of
22 Corrections and Rehabilitation, and
California Correctional Center*

23 Dated: October 28, 2016

Respectfully submitted,

24 LARRY RABINEAU
25 VIRGINIA NARIAN
Law Offices of Larry Rabineau

26 */s/ Virginia Narian
(as authorized on October 28, 2016)*

27 VIRGINIA NARIAN
28 *Attorneys for Plaintiff Maria Aguirre*

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ORDER

In accordance with the parties' foregoing stipulation, and good cause appearing, the hearing on Defendants' motion to dismiss the Amended Complaint shall be continued from November 17, 2016 to December 1, 2016 at 2:00 p.m.

Additionally, all deadlines under Federal Rules of Civil Procedure 16 and 26 and the Initial Pretrial Scheduling Order are stayed pending issuance of a final order on Defendants' motion to dismiss the Amended Complaint. If the case survives the motion to dismiss, new deadlines shall be set no sooner than twenty-one days following service of the Court's final order on Defendants' motion to dismiss.

IT IS SO ORDERED.

Dated: November 14, 2016


MORRISON C. ENGLAND, JR.
UNITED STATES DISTRICT JUDGE