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9 *and Baughman*

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

14 **M.B. III, a minor, by and through his**
15 **Guardian Ad Litem, TITICE BEVERLY,**
16 **individually and as Successor in Interest**
17 **and Personal Representative of the Estate of**
18 **MILTON BEVERLY, JR., et al.,**

Plaintiffs,

19 v.

20 **STATE OF CALIFORNIA, et al.,**

21 Defendants.

2:17-cv-02395 WBS DB

**STIPULATION TO CONTINUE
SCHEDULING CONFERENCE;
[PROPOSED] ORDER**

23 A scheduling conference in this case is currently set for May 7, 2018. (ECF No. 13.) Under
24 Federal Rule of Civil Procedure 16(b)(4) and Local Rule 143, the parties, through their counsel of
25 record, agree to and request a continuance of the scheduling conference to June 7, 2018, or a
26 similar date convenient for the Court.

27 A scheduling order may be modified only upon a showing of good cause and by leave of
28 Court. Fed. R. Civ. P. 6(b)(1)(A), 16(b)(4); *see, e.g., Johnson v. Mammoth Recreations, Inc.*, 975

1 F.2d 604, 609. In considering whether a party moving for a schedule modification has good
2 cause, the Court primarily focuses on the diligence of the party seeking the modification.
3 *Johnson*, 975 F.2d at 609 (citing Fed. R. Civ. P. 16 advisory committee's notes of 1983
4 amendment).

5 The instant stipulation is necessitated by the fact that the attorney who had been acting as
6 defense counsel has been re-assigned and is no longer involved in this case. The new defense
7 counsel recently assigned to handle this case will require some time to conduct their own review
8 and investigation of this matter so that they may effectively advise the Defendants and engage in
9 a meaningful Rule 26(f) conference. Furthermore, the Defendants' motion to dismiss was recently
10 granted in large part, Plaintiffs were provided leave to amend, and no operative complaint is yet
11 on file. (ECF No. 19.) Lastly, one of Plaintiffs' attorneys is currently out of the country.

12 Based on the foregoing, the parties stipulate as follows: the scheduling conference currently
13 set for May 7, 2018, is continued to June 7, 2018, or a similar date convenient for the Court. At
14 least twenty-one calendar days before the scheduling conference is held, the parties shall

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1 confer and attempt to agree upon a discovery plan. The parties shall submit to the Court a joint
2 status report fourteen calendar days before the scheduling conference.

3 Dated: April 16, 2018

Respectfully submitted,

4 XAVIER BECERRA
5 Attorney General of California
6 JON S. ALLIN
7 Supervising Deputy Attorney General

/s/ Aseil Mohmoud

8 ASEIL MOHMOUD
9 Deputy Attorney General
10 *Attorneys for Defendants*
11 *State of California, California Department*
12 *of Corrections and Rehabilitation, Brown,*
13 *Kernan, and Baughman*

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13 Dated: April 16, 2018

GLICKMAN & GLICKMAN
A LAW CORPORATION

/s/ Nicole E. Hoikka (as authorized 4/16/18)

16 STEVEN C. GLICKMAN
17 NICOLE E. HOIKKA
18 *Attorneys for Plaintiffs*

19 **ORDER**

20 Good cause appearing, the parties' stipulation to continue the scheduling conference is
21 GRANTED. The scheduling conference currently set for May 7, 2018, is continued to **June 18,**
22 **2018 at 1:30 p.m.** At least twenty-one (21) calendar days before the scheduling conference is
23 held, the parties shall confer and attempt to agree upon a discovery plan. The parties shall submit
24 to the Court a joint status report no later than **June 4, 2018.**

25 IT IS SO ORDERED.

26 Dated: April 17, 2018



27 WILLIAM B. SHUBB
28 UNITED STATES DISTRICT JUDGE