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

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

16 Plaintiffs,

17 v.

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

19 Defendants.
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2:17-cv-02395 WBS DB

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

22 A scheduling conference in this case is currently set for November 19, 2018. (ECF No. 47.)
23 Under Federal Rule of Civil Procedure 16(b)(4) and Local Rule 143, the parties, through their
24 counsel of record, agree to and request a continuance of the scheduling conference to January 22,
25 2019, or a similar date convenient for the Court.

26 A scheduling order may be modified only upon a showing of good cause and by leave of
27 Court. Fed. R. Civ. P. 6(b)(1)(A), 16(b)(4); *see, e.g., Johnson v. Mammoth Recreations, Inc.*, 975
28 F.2d 604, 609. In considering whether a party moving for a schedule modification has good

1 cause, the Court primarily focuses on the diligence of the party seeking the modification.
2 *Johnson*, 975 F.2d at 609 (citing Fed. R. Civ. P. 16 advisory committee’s notes of 1983
3 amendment).

4 This stipulation is based on the fact that, on October 16, 2018, the Court granted the
5 Defendants’ motion to dismiss. (ECF No. 55.) All claims against the Defendants were dismissed.
6 (*Id.*) Plaintiffs were given twenty days to file a fourth amended complaint if they could consistent
7 with the Court’s order. (*Id.*) A fourth amended complaint has not yet been filed.

8 A continuance of the scheduling conference would benefit both the parties and the Court in
9 allowing sufficient time for a fourth amended complaint to be filed, for the Defendants to file
10 their responsive pleading, and to resolve any issues with the fourth amended complaint before
11 requiring that the parties set discovery and other case deadlines.

12 Based on the foregoing, the parties stipulate as follows: the scheduling conference currently
13 set for November 19, 2018, is to be continued to January 22, 2019, or a similar date convenient
14 for the Court. At least twenty-one calendar days before the scheduling conference is held, the

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

3 Dated: October 30, 2018

Respectfully submitted,

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

/s/ Matthew Ross Wilson

8 MATTHEW ROSS WILSON
9 Deputy Attorney General
10 *Attorneys for Defendants*
11 *Manes, Vue, Ballard, Mohr, and Munroe*

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14 Dated: October 30, 2018

GLICKMAN & GLICKMAN
A LAW CORPORATION

/s/ Nicole E. Hoikka (as authorized 10/30/18)


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

18 **ORDER**

19 Good cause appearing, the parties' stipulation to continue the scheduling conference is
20 GRANTED. The scheduling conference currently set for November 19, 2018, is continued to
21 **January 28, 2019 at 1:30 p.m.** At least twenty-one calendar days before the scheduling
22 conference is held, the parties shall confer and attempt to agree upon a discovery plan. The parties
23 shall file with the Court a joint status report fourteen calendar no later than **January 14, 2019.**

24 IT IS SO ORDERED.

25 Dated: October 31, 2018

26 
27 WILLIAM B. SHUBB
28 UNITED STATES DISTRICT JUDGE