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20 **UNITED STATES DISTRICT COURT**
 21 **EASTERN DISTRICT OF CALIFORNIA**

22 I.F., by and through her guardian ad litem SHASTA
 23 SKINNER, individually and as successor-in-interest to
 24 Decedent RONELL FOSTER; R.F., by and through his
 25 guardian ad litem SHENA BATTEN, individually and
 26 as successor-in-interest to Decedent RONELL
 27 FOSTER; PAULA MCGOWAN, individually; and
 28 RONELL FOSTER, SR., individually.

Plaintiffs,

vs.

CITY OF VALLEJO, a municipal corporation; RYAN
 MCMAHON, individually and in his official capacity as
 a Police Officer for the CITY OF VALLEJO; and
 DOES 1-50, inclusive.

Defendants.

No: 2:18-cv-00673-JAM-CKD

**STIPULATION AND ORDER
 TO ADJUST CERTAIN
 PRETRIAL DATES; TRIAL
 DATE UNAFFECTED
 (AS MODIFIED BY THE COURT)**

1 TO THE HONORABLE COURT:
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3 On October 9, 2019, this Court entered an order staying discovery of this case as to
4 Defendant Officer Ryan McMahon while the District Attorney for the County of Solano
5 investigated the underlying case to determine whether to bring criminal charges. That investigation
6 was completed as of Friday, January 31, 2020, with the District Attorney deciding not to prosecute
7 Defendant Officer McMahon. Counsel for the City notified all parties on Monday, February 3,
8 2020, regarding the District Attorney's decision. This court last addressed the pretrial dates in this
9 case in its order dated February 11, 2020 (Doc. 40). Since that time, in addition to exchange of
10 documents, the parties have completed the depositions of Defendant McMahon, several percipient
11 officer-witnesses, some command staff, and all adult Plaintiffs.

12 On March 18, 2020, all Defendants associated in new defense counsel, Dale L. Allen, Jr.,
13 from Allen, Glaessner, Hazelwood & Werth, LLP. Mr. Allen and Plaintiffs' counsel met
14 telephonically shortly thereafter to confer about outstanding discovery and case dates and
15 deadlines. The parties informally agreed that due to defense counsel's recent appearance in the
16 case, it would be appropriate to seek continuance of certain pretrial dates to allow new counsel to
17 get up to speed. Then, on April 9, 2020, attorney Bruce A. Kilday, from Angelo, Kilday & Kilduff,
18 LLP, informed the parties that he would be substituting in as counsel for Defendant Officer
19 McMahon. The parties began to meet and confer again concerning case dates to try to
20 accommodate the scheduling needs of Mr. Kilday and his soon-to-be client, Officer McMahon.
21 Mr. Kilday filed his appearance in this matter on Friday, April 24, 2020.

22 At this time, discovery is mostly complete, however, due to the changes in counsel and the
23 COVID-19 restrictions, the parties had to repeatedly reschedule the depositions of four members of
24 the Vallejo Police Department (VPD) command staff and a VPD Rule 30(b)(6) witness. Those
25 depositions were completed on April 27, 2020, by video-conference. Plaintiffs represent that those
26 depositions were necessary for Plaintiffs' claims, including a *Monell* claim, and necessary for their
27 experts to review before expert disclosures could be completed. Anticipating that this stipulation
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1 would have been filed before Mr. Kilday announced his impending entry to this case, the parties
2 had informally agreed that expert reports would be exchanged two weeks after those four VPD
3 depositions were completed. Additionally, due to the fact that certain administrative investigations
4 by the Vallejo Police Department concerning this shooting are still ongoing, Defendants agree that
5 Plaintiffs may take the previously noticed Rule 30(b)(6) deposition concerning those
6 investigations, subject to any objections by Defendants, when the investigations are complete,
7 which Defendants anticipate will be complete within sixty days. Despite significant difficulties
8 caused by the COVID-19 restrictions, all counsel have been working cooperatively to try to
9 conduct necessary discovery and avoid unnecessary conflicts.

10 Also due to COVID-19 and public health hazards, Plaintiffs' expert forensic pathologist,
11 Dr. Bennett Omalu, has been unable to do examination of Decedent's tissue and biological material
12 at the Solano County Coroner's Office that had been stipulated and ordered to take place at a
13 mutually convenient date and time. (Doc. 42). It is unclear when he will be able to do that
14 necessary work with the decedent's blood, tissue, and biological matter. Dr. Omalu's work at the
15 Coroner's Office is necessary before he can draft his Rule 26 report. However, the parties have
16 agreed that Dr. Omalu may submit his Rule 26 disclosures within two weeks of when he completes
17 his examination at the Coroner's Office.

18 The parties also agree that it is not necessary to have completed expert discovery in order to
19 brief Defendant(s)' anticipated motion(s) for summary judgment.

20 The parties have also agreed to participate in a settlement conference, and in a separate
21 stipulation and order, Northern District Magistrate Judge Laurel Beeler will conduct the settlement
22 conference on July 21, 2020. (Doc. 46).

23 Finally, the parties respectfully request that this court preserve, if possible, the current dates
24 for trial and pretrial conference. The parties believe that the proposed schedule below addresses
25 the unique necessities of this case, of original and recently-joined counsel, and complications
26 caused by COVID-19, while changing dates as little as possible and preserving the trial and pretrial
27 conference dates.

1 Given the above, the parties respectfully request that, subject to the Court's calendar, the
 2 Court modify the case management for this matter as follows:

<u>Case Event</u>	<u>Current Date</u>	<u>Proposed Date</u>
1. Expert disclosures	April 8, 2020	May 11, 2020* (except for expert Bennett Omalu, M.D., whose Rule 26 disclosure will be due 14 days after he completes his previously ordered work at the Coroner's Office)
2. Rebuttal expert disclosures	April 22, 2020	June 8, 2020
3. Joint Statement summarizing all law and motion	May 11, 2020	May 26, 2020
4. Close of fact discovery	June 1, 2020	June 8, 2020
5. Filing of Dispositive Motions	June 26, 2020	July 10, 2020
6. Filing of Oppositions to Dispositive Motions	Per court rules	August 4, 2020
7. Filing of Replies to Dispositive Motions	Per court rules	August 11, 2020
8. Hearing on dispositive motions	July 28, 2020	August <u>25</u> , 2020 at 1:30 p.m.
9. Close of Expert Discovery	June 1, 2020	August 30, 2020
10. Pretrial conference	October 16, 2020	UNCHANGED
11. Trial	December 2020	UNCHANGED

1 **So Stipulated.**

2 DATED: May 8, 2020

HADDAD & SHERWIN LLP

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/s/ Michael J. Haddad

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MICHAEL J. HADDAD

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Attorneys for Plaintiff I.F.

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7 DATED: May 8, 2020

ALLEN, GLAESSNER, HAZELWOOD &
WERTH, LLP

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/s/ Dale L. Allen, Jr.

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DALE L. ALLEN, JR.

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Attorneys for Defendant City of Vallejo

11 DATED: May 8, 2020

ANGELO, KILDAY & KILDUFF

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/s/ Bruce A. Kilday

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BRUCE A. KILDAY

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Attorneys for Defendant Ryan McMahon

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16 DATED: May 8, 2020

LAW OFFICES OF JOHN L. BURRIS

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/s/ Adante D. Pointer

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ADANTE D. POINTER

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PATRICK BUELNA

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Attorney for Plaintiffs, R.F., et al.

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ORDER (AS MODIFIED BY THE COURT)

Based on the parties' stipulation, and with good cause appearing therefore,
IT IS SO ORDERED.

DATED: May 8, 2020

/s/ John A. Mendez

**Hon. John A. Mendez
U. S. District Court Judge**