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9 Attorneys for Defendants COUNTY OF NEVADA  
 10 and SERGEANT JEANNETTE MULLENAX

11 **UNITED STATES DISTRICT COURT**  
 12 **EASTERN DISTRICT OF CALIFORNIA**

13 Estate of LINDA MILLER, by and through  
 14 Minor H.S., by and through his Guardian *ad*  
 15 *Litem* RICHARD HYDE, as Administrator;  
 16 CHRISTINA HYDE; and Minor Plaintiff H.S.,  
 17 by and through his Guardian *ad Litem*,  
 18 RICHARD HYDE,

19 Plaintiffs,

20 vs.

21 COUNTY OF SUTTER; COUNTY OF  
 22 NEVADA, SHERIFF BRANDON BARNES, in  
 23 his individual and official capacities; SHERIFF  
 24 SHANNAN MOON, in her individual and  
 25 official capacities; COMMANDER DAN  
 26 BUTTLER, in his individual and official  
 27 capacities; LIEUTENANT NORMAN  
 28 BIDWELL, in his individual capacity;  
 SERGEANT KRISTIE M. GARZA, in her  
 individual capacity; BRENDA FRANKS, in her  
 individual capacity; MARETTE COOPER, in  
 her individual capacity; JEANETTE  
 MULLENAX, in her individual capacity;  
 WELLPATH; H.I.G. CAPITAL, LLC;  
 CALIFORNIA FORENSIC MEDICAL  
 GROUP (AKA Correctional Medical Group  
 Companies, Inc. and AKA Wellpath);  
 TAYLOR FIFTHIAN; and DOES 1-20,

Defendants.

Case No.: 2:20-cv-00577-DJC-DMC

**DEFENDANTS' EX PARTE  
 APPLICATION FOR ORDER  
 SHORTENING TIME ON  
 DEFENDANTS' JOINT MOTION TO  
 CONTINUE THE DISPOSITIVE  
 MOTIONS FILING DEADLINE**

1 I, WENDY MOTOOKA, declare as follows:

2 1. I am a duly licensed attorney admitted to practice before this Court and a member  
3 of the firm of Rivera Hewitt Paul LLP, attorneys of record for defendants COUNTY OF  
4 NEVADA and SERGEANT JEANNETTE MULLENAX (“Nevada County defendants”) in this  
5 action.

6 2. The Nevada County defendants apply ex parte for an order shortening time on  
7 defendants’ Joint Motion to Extend the Dispositive Motions Filing Deadline from March 29,  
8 2024 to April 29, 2024. A copy of the proposed motion is attached hereto as **Exhibit A**.

9 3. I have spoken with counsel for defendants COUNTY OF SUTTER, SHERIFF  
10 BRANDON BARNES, COMMANDER DAN BUTTLER, LIEUTENANT NORMAN  
11 BIDWELL and SERGEANT KRISTIE M. GARZA; BRENDA FRANKS, WELLPATH,  
12 CALIFORNIA FORENSIC MEDICAL GROUP; and ASHLEE MOSELEY (collectively,  
13 “Defendants”) about this ex parte application and they agree that an order shortening time is  
14 needed.

15 4. This case is set for settlement conference on March 1, 2024 before the Honorable  
16 Carolyn K. Delaney. Dkt. No. 185.

17 5. The dispositive motions filing deadline is March 29, 2024. Dkt. No. 123. Under  
18 the Court’s Standing Order, the parties must meet and confer on dispositive motions 28 days in  
19 advance of the dispositive motions filing deadline, which would be March 1, 2024, the same day  
20 as the settlement conference.

21 6. The parties are currently engaged in expert discovery, with ten expert depositions  
22 scheduled between February 1, 2024 and February 28, 2024. The parties will also be conducting  
23 the court-ordered deposition of Minor Plaintiff H.S. on February 7.

24 7. The Court granted a stipulated order extending certain pretrial dates by 30 days at  
25 Dkt. No. 145. Defendants were under the mistaken impression that because the order continued  
26 the dispositive motions hearing deadline for 30 days to July 10, 2024, that the dispositive motions  
27 filing deadline would track with it.

28 8. The Court’s order continuing the dispositive motions hearing deadline states that

1 all subsequent motions to modify the scheduling order would require a noticed motion.

2 9. It only recently came to Defendants' attention, in January 2024, that the  
3 dispositive motions filing deadline did not move with the dispositive motions hearing deadline.

4 10. Because the Court's prior order directed that all subsequent modifications to the  
5 scheduling order be done by way of noticed motion, I asked our staff to contact to the Court to  
6 determine when the Court could hear Defendants' motion to continue the dispositive motion  
7 filing deadline. Staff contacted the Court and learned that March 14, 2024 was the earliest  
8 available date.

9 11. If the dispositive motion filing deadline is March 29, 2024, Defendants must  
10 engage in substantial preparation of their summary judgment and/or summary adjudication  
11 motions in February, so that they may meaningfully meet and confer with plaintiffs about the  
12 motions before March 1, 2024.

13 12. Defendants will also have to engage in this work in February, concurrently with  
14 preparing for the settlement conference on March 1, 2024, and without the benefit of several  
15 expert witness deposition transcripts, unless the dispositive motions filing deadline is continued  
16 to a later date.

17 13. Defendants therefore respectfully seek an order, as soon as feasible, continuing the  
18 dispositive motions filing deadline to April 29, 2024.

19 14. On January 17, 2024, I emailed plaintiffs to explain the scheduling problem and to  
20 inquire if they would agree to join in Defendants' motion to extend the dispositive motions filing  
21 deadline.

22 15. On January 18, 2024, plaintiffs declined to state their position because the parties  
23 had not yet agreed on a date for Minor Plaintiff H.S.'s court-ordered deposition. But the  
24 deposition is unrelated to the dispositive motions filing deadline.

25 16. On January 19, 2024, I emailed plaintiffs again, asking them to indicate by January  
26 22, 2024 whether they intended to oppose Defendants' motion and whether they would stipulate  
27 to the motion being heard on shortened time. Plaintiffs did not respond on January 22.

28 17. On January 24, 2025, Defendants conferred and agreed that they should not further

1 delay this time-sensitive motion. I wrote to plaintiffs later that day, informing plaintiffs that  
2 Defendants intended to move to extend the dispositive motions filing deadline within the week  
3 and that Defendants would construe plaintiffs' silence as plaintiffs' intention to oppose  
4 defendants' motion and refusal to stipulate to the motion's being heard on shortened time.

5 18. The following day, plaintiffs wrote back to say that they would provide their  
6 response the next day.

7 19. On January 25, 2024, plaintiffs informed Defendants that "in principle" they did  
8 not oppose moving the dispositive motions filing deadline, but then plaintiffs proposed much  
9 more significant modifications to the Scheduling Order, including an extended briefing schedule.  
10 Plaintiffs' proposed modifications would reset the dispositive motions hearing date for August 8,  
11 2024, the same date that the parties' Joint Pretrial Statement would be due. Plaintiffs still did not  
12 indicate if they would oppose defendants' motion to extend the dispositive motions filing date,  
13 nor did they state whether plaintiffs would stipulate to have the motion heard on shortened time.

14 20. On January 29, 2024, I wrote to plaintiffs again, informing them that Defendants  
15 intended to file their motion on shortened time solely to continue the dispositive motions filing  
16 deadline and asked plaintiffs to state whether they would oppose the motion and whether they  
17 would stipulate to have it heard on shortened time. I requested that plaintiffs respond by close of  
18 business the following day.

19 21. As of the time of the filing this declaration, Plaintiffs have not yet responded to my  
20 January 29, 2024 email.

21 22. As described above, Defendants have attempted to obtain a stipulation from  
22 plaintiffs to have Defendants' motion heard on shortened time, but Plaintiffs have refused to  
23 respond to this inquiry. Defendants construe Plaintiffs' silence to mean that they will oppose  
24 Defendants' motion and that they will not stipulate to its being heard on shortened time.

25 23. Defendants therefore hereby apply ex parte for an order shortening time to hear  
26 Defendants' motion to continue the dispositive motions filing deadline, and respectfully request  
27 that the motion be heard by February 9, 2024, if feasible. Defendants do not request a  
28 continuance of any other case management deadlines.

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24. I have personal knowledge of the matters referenced above and, if called upon, could competently testify thereto.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on January 31, 2024, at Gold River, California.

/s/ Wendy Motooka  
WENDY MOTOOKA

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**ORDER**

Having reviewed the ex parte application of defendants and good cause appearing, defendants' ex parte application for an order shortening time on defendants' motion to continue the dispositive motions filing deadline from March 29, 2024 to April 29, 2024 is GRANTED.

The Court further ORDERS:

1. Defendants' proposed motion to continue the dispositive motions filing deadline, served and filed with the ex parte application, shall be deemed filed on the same date as the ex parte application was filed;

2. Plaintiffs' opposition, if any, shall be filed seven (7) days after service of Defendants' motion;

3. There shall be no reply; and

4. The Court shall submit the matter without appearance and without oral argument pursuant to Local Rule 230(g). If the Court subsequently concludes that oral argument is necessary, a hearing will be set, and the parties notified accordingly.

**IT IS SO ORDERED.**

Dated: February 6, 2024

/s/ Daniel J. Calabretta  
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THE HONORABLE DANIEL J. CALABRETТА  
UNITED STATES DISTRICT JUDGE