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LAW OFFICES OF
WALKUP, MELODIA, KELLY & SCHOENBERGER
A PROFESSIONAL CORPORATION

650 CALIFORNIA STREET, 26TH FLOOR
SAN FRANCISCO, CALIFORNIA 94108-2615
(415) 981-7210

MICHAEL A. KELLY (State Bar #71460)
KHALDOUN A. BAGHDADI (State Bar #190111)
ATTORNEYS FOR PLAINTIFFS

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SAMANDA DORGER, INDIVIDUALLY AND
AS SUCCESSOR-IN-INTEREST TO THE
ESTATE of RICHARD POCCIA; GABRIELLE
POCCIA,

Plaintiffs,

v.

CITY OF NAPA; NAPA POLICE CHIEF
RICHARD MELTON, IN HIS INDIVIDUAL
AND OFFICIAL CAPACITY; NAPA POLICE
OFFICER BRAD BAKER; NAPA POLICE
OFFICER NICK DALESSI; and DOES 1
through 25,

Defendants.

Case No. 12-cv-0440-WHO

**STIPULATION AND ORDER RE
CONTINUANCE OF TRIAL DATE AND
PRETRIAL CONFERENCE**

To the Honorable Court:

The parties to this action, by and through their counsel of record, hereby stipulate and respectfully request as follows:

1. The parties to this action have been working diligently and cooperatively to complete discovery to prepare for trial.
2. However, some issues have arisen, outside of their control, which prevent them from completing the depositions and fact discovery and expert disclosures and expert discovery necessary to afford a fair trial.

1 a. Namely, decedent's treating physician (Dr. Peter Matthews) initially agreed
2 to a date for his deposition, and then requested that his counsel be present. Though this request is
3 understandable, his counsel is not available for deposition until April 15, 16 or 18, 2014. This
4 presents an extreme challenge for the experts to receive, digest and complete reports pursuant to
5 FRCP Rule 26.

6 b. In addition, the pathologist who performed the autopsy on decedent (Dr.
7 Mark Super) has been unresponsive, despite repeated attempts to contact and obtain dates for
8 voluntary appearance at deposition. Though the parties hoped to avoid doing so, a subpoena will
9 be issued for a date that works for counsel to get this deposition complete.

10 c. The decedent's treating psychiatrist (Dr. Alex Stalcup) has also been
11 unresponsive, despite repeated contact attempts to arrange his deposition and will also necessitate
12 a subpoena and possibly a motion to compel his attendance at his deposition.

13 d. Because a new issue has arisen regarding the knife that was located next to
14 the body of the decedent, it is now being arranged, in cooperation with the State Department of
15 Justice, to conduct DNA touch testing analysis of swabbed materials lifted from the knife during
16 the original forensic evidence collection for comparison to DNA samples from the officers who
17 were on scene, including the two defendant officers. The DOJ Lab is cooperating and may have
18 test results by mid-May - June 2014 but have stated additional time to complete the DNA testing
19 would be appreciated.

20 e. Depositions of Investigators from the State of California Board of Quality
21 Assurance for Nursing who were involved in the administrative proceeding to terminate decedent's
22 nursing license (there was an evidentiary hearing scheduled for a date two weeks after his death)
23 still have to be completed as well as a deposition of the attorney representing decedent in that
24 proceeding.

25 4. All of this discovery must be completed before the retained experts may complete
26 their work and issue their Rule 26 Reports and then be deposed.

27 5. The parties have accordingly conferred, and respectfully submit that a continuance
28 of the trial and corresponding deadlines is therefore appropriate.

ORDER

Having considered the stipulated request of the parties, the Court orders as follows:

1. Good cause having been shown, and in light of the stipulation of the parties, the trial date of May 12, 2014 is hereby vacated.

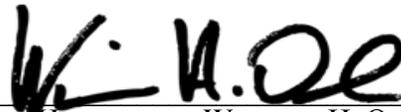
2. Trial is now set for January 12, 2015. The pre-trial conference shall be held on December 15, 2014.

3. It is unclear to the Court what the parties meant by suggesting that all pretrial deadlines would be governed by the trial date. To add a bit of clarity, the depositions described in the stipulated request, and all expert discovery, shall be concluded by October 31, 2014. If either party wants the Court to issue a more detailed schedule for the depositions, expert reports and expert depositions, or for any reason thinks a case management conference would be useful at this juncture, please contact Ms. Davis, the courtroom deputy.

4. This matter is referred to Magistrate Judge Joseph Spero for a settlement conference to occur at Judge Spero's and the parties' convenience during the month of November, 2014. The parties shall contact Judge Spero's courtroom deputy in two weeks if the date and time for the settlement conference has not been determined.

IT IS SO ORDERED.

DATED: March 14, 2014



THE HONORABLE WILLIAM H. ORRICK
UNITED STATES DISTRICT JUDGE