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 15 ELISA RAMIREZ, Guardian ad Litem for A.S., minor

17 UNITED STATES DISTRICT COURT
 18 NORTHERN DISTRICT OF CALIFORNIA

19 ELISA RAMIREZ, Guardian ad Litem for A.S.,
 20 minor,

21 Plaintiff,

22 v.

23 COUNTY OF ALAMEDA, ALAMEDA
 24 COUNTY SHERIFF'S DEPT, GREGORY
 25 AHERN, Sheriff,

26 Defendants.

Case No. 3:12-cv-04852-MEJ

**STIPULATION AND ~~[PROPOSED]~~ ORDER
 CONTINUING MEDIATION COMPLIANCE
 DATE AND DISCOVERY/DISPOSITIVE
 MOTION DEADLINES**

Hon. Maria-Elena James

1 **STIPULATION**

2 Defendant ANTHONY MOSCHETTI, deputy sheriff for the County of Alameda, and plaintiff
3 ELISA RAMIREZ, Guardian ad Litem for A.S., a minor by and through their respective attorneys of
4 record, hereby stipulate as follows:

5 1. The initial Case Management Conference was scheduled for December 13, 2012. At the
6 time of that initial conference, the COUNTY OF ALAMEDA and SHERIFF GREGORY AHERN were
7 defendants to the matter. ANTHONY MOSCHETTI and SEARGENT K. RITTER had not been named.
8 Pursuant to the Court's Case Management Order issued on December 10, 2012, the Case Management
9 Conference was vacated and the following discovery and dispositive motion deadlines were set:

- 10 (A) Disclosure of Expert Witnesses and Expert Reports to be served by 9/13/2013;
11 (B) Disclosure of Rebuttal Expert Witnesses to be served by 9/23/2013;
12 (C) Non-Expert Discovery to be completed by 10/8/2013;
13 (D) All Dispositive Motions shall be filed, served, and noticed by 11/7/2013;
14 (E) The Court shall hear dispositive motions no later than 12/12/2013; and
15 (F) Trial is scheduled for 4/14/2014.

16 2. On January 8, 2013, the parties were assigned to H. Jay Folberg for mediation.

17 3. By Order dated March 3, 2013, the Court approved the Parties' stipulation to continue the
18 mediation compliance date until July 4, 2013.

19 4. At this time, due to the procedural history of this matter, defendant is unable to comply
20 with the above deadlines for the following reasons:

21 (a) The original Complaint named only the County and Sheriff Ahern as defendants.
22 No individual deputies were named, although Doe defendants were named.

23 (b) On December 19, 2012, previous defendants filed a motion to dismiss the only
24 cause of action brought against the named defendants (the second claim for relief alleging a Monell
25 claim). On January 23, 2013, the Court granted defendants' Motion to Dismiss, leaving no named
26 defendants in the action, thereby preventing further discovery.

27 (c) Plaintiff did not file a First Amended Complaint by February 5, 2013, the deadline
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1 set by the Court. On April 3, 2013, plaintiff filed a motion for leave to file a First Amended Complaint.
2 By Order, the Court granted plaintiff's motion for leave to amend on April 19, 2013. The same day
3 plaintiff filed a First Amended Complaint to substitute SERGEANT K. RITTER and DEPUTY
4 ANTHONY MOSCHETTI for Doe defendants. The First Amended Complaint has not been served on
5 either defendant.

6 (b) In an effort to expedite this matter, defense counsel obtained authorization and
7 agreed to accept service of the First Amended Complaint on behalf of DEPUTY ANTHONY
8 MOSCHETTI effective the day this Court signs the foregoing stipulation continuing currently set
9 deadlines. Acceptance of service was predicated on plaintiff's counsel stipulating to a continuance of
10 these dates because absent continuance of these deadlines, defendants would suffer extreme prejudice in
11 their ability to conduct discovery and prepare for trial due to a lack of service of the First Amended
12 Complaint. Counsel for defendant extended this offer in May of 2013, and several more times in June,
13 July and August of 2013, but no agreement was obtained. Counsel for defendant is not authorized to
14 accept service of the complaint on behalf of SERGEANT K. RITTER as he is no longer employed by the
15 County of Alameda.

16 (c) Previous defendant, County of Alameda, propounded written discovery on plaintiff
17 on January 15, 2013. However, the County was dismissed from this action on January 23, 2013.
18 Responses to the County's written discovery would have been due February 19, 2013. Accordingly, no
19 further responses have been made to the County's propounded written discovery.

20 (d) Because no named defendants in the action remained after the Court granted the
21 Motion to Dismiss, plaintiff had no obligation to respond to remaining discovery previously propounded
22 by County of Alameda. Defendants will need to re-serve discovery requests on behalf of the newly
23 named individual defendants once served or upon signing of this stipulation. Defendant cannot depose
24 plaintiff until service or the signing of this stipulation and until written discovery responses are received.

25 (e) Plaintiff's counsel has been in back to back trials since July 9, 2013. Mr. Lacy
26 appeared as counsel for Plaintiff in Williams v. City of Merced, case no. 1:10-cv-01999-MJS before the
27 Honorable Michael J. Seng. Plaintiff's counsel also appeared in trial in another separate and unrelated
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1 matter in the United States District Court for the Eastern District of California before the Honorable
2 William B. Schubb in DeOcampo v. City of Vallejo, et al., case no. 2:06-cv-01283-WBS from August 6,
3 2013 to August 23, 2013. That trial was originally supposed to end on August 20, 2013; however,
4 presentation of evidence took longer than anticipated by the parties. As such, Plaintiff's counsel was
5 unavailable to meet and confer regarding this matter.

6 (f) Plaintiff's counsel has now agreed to submit the following stipulation regarding
7 service of the complaint and a continuance of currently set deadlines. Upon the service of the First
8 Amended Complaint in this matter, named defendants reserve all rights to move to dismiss the complaint
9 on both substantive and procedural grounds.

10 (g) A further extension of the mediation compliance date and related
11 discovery/dispositive motion dates is therefore necessary to complete written discovery and take
12 necessary depositions.

13 5. For all the good cause stated above, the parties respectfully request this Court extend the
14 deadline to complete mediation from July 4, 2013 to January 18, 2014.

15 6. The parties further request the Court extend the currently set deadlines (other than the trial
16 date) as set forth below.

17 (A) Disclosure of Expert Witnesses and Expert Reports to be served by 2/15/2014;

18 (B) Disclosure of Rebuttal Expert Witnesses to be served by 2/25/2014;

19 (C) Non-Expert Discovery to be completed by 4/3/2013;

20 (D) All Dispositive Motions shall be filed, served, and noticed by 5/3/2014;

21 (E) The Court shall hear dispositive motions no later than 7/6/2014

22 7. The parties further request the Court continue the trial date in this matter from April 14,
23 2014 to September 15, 2014.

24 8. Alternatively, the parties respectfully request this Court vacate all presently set dates and
25 set a date for a case management conference to address scheduling issues.

26 9. The parties respectfully request that the Court approve this stipulation and incorporate its
27 terms in an Order.

1 **IT IS SO STIPULATED.**

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3 Dated:

THE LAW OFFICES OF JOHN L. BURRIS

4
5 By: /s/ DeWitt Lacy
6 DeWitt M. Lacy
7 Attorneys for Plaintiff
8 ELISA RAMIREZ, Guardian ad Litem for A.S.,
9 minor

10
11 Dated:

BERTRAND, FOX & ELLIOT

12 By: /s/ Michael Wenzel
13 Michael C. Wenzel
14 Attorneys for Defendant ANTHONY
15 MOSCHETTI
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ORDER

GOOD CAUSE APPEARING THEREFORE, and the parties' having stipulated to same, the parties' stipulation is hereby APPROVED. The deadline for the parties to complete mediation shall be continued until July 4, 2013 to January 18, 2014.

The Court further orders the following deadlines:

(A) Disclosure of Expert Witnesses and Expert Reports to be served by 2/15/2013;

(B) Disclosure of Rebuttal Expert Witnesses to be served by 2/25/2013;

(C) Non-Expert Discovery to be completed by 4/3/2013;

(D) All Dispositive Motions shall be filed, served, and noticed by 5/3/2014;

(E) The Court shall hear dispositive motions no later than 7/6/2014

(F) Trial in this matter is ~~continued from April 14, 2014 to September 15, 2014.~~
VACATED.

(G) Pretrial 3/13/2014; Final Pretrial Conference 4/10/2014 VACATED.

IT IS SO ORDERED.

DATED: October 2, 2013



HONORABLE MARIA-ELENA JAMES
United States Magistrate Judge