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HIGH SCHOOL DISTRICT, et al.

Attorneys for Plaintiffs SARAH
UNVERFERTH, et al.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SARAH UNVERFERTH and P.C., a minor,
by and through his guardian ad litem SARAH
UNVERFERTH,

Plaintiffs,

v.

LIBERTY UNION HIGH SCHOOL
DISTRICT, ERIC VOLTA, JOHN SAYLOR,
PATRICK WALSH, JENNIFER KOETT,
ILENE FOSTER, and SANDRA
GUARDADO, and DOES 1-30,

Defendants.

Case No. 3:15-cv-01721-EMC

**JOINT STIPULATION AND [~~PROPOSED~~]
ORDER TO (1) EXTEND TIME TO
COMPLETE MEDIATION AND (2)
CONTINUE FURTHER STATUS
CONFERENCE**

Judge: Hon. Edward M. Chen

STIPULATION

Plaintiffs SARAH UNVERFERTH and P.C., a minor, by and through his guardian ad litem Sarah Unverferth (collectively “Plaintiffs”) and Defendants LIBERTY UNION HIGH SCHOOL DISTRICT, ERIC VOLTA, JOHN SAYLOR, PATRICK WALSH, JENNIFER KOETT, ILENE FOSTER, and SANDRA GUARDADO (collectively “Defendants”), by and through their counsel, hereby stipulate as follows:

WHEREAS, the Court referred this matter to ADR for mediation, and initially ordered the parties to complete mediation by March 8, 2016. [Doc. 59, 60];

WHEREAS, the Court, pursuant to the stipulation of the parties, continued the deadline to

1 complete to mediation to June 22, 2016 and set the matter for post-mediation Further Status
2 Conference on July 21, 2016. [Doc. 63];

3 WHEREAS, mediation in this matter is currently scheduled for June 9, 2016;

4 WHEREAS, the crux of Plaintiff P.C.'s damages claim in this action is founded upon the
5 contention that he has suffered physical injuries as well as significant psychological and emotional
6 harm as a result of Defendants' conduct;

7 WHEREAS, with respect to Plaintiff P.C.'s damages claim, Defendants, who also contest all
8 other aspects of Plaintiffs' claims, including liability and causation, contend, among other things, that
9 Plaintiff P.C. did not suffer the alleged injuries for which he now seeks recovery, and/or that such
10 alleged injuries/conditions were pre-existing and/or were otherwise not caused by any unlawful,
11 wrongful, negligent, or other conduct by Defendants sufficient to give rise to a finding of liability
12 against, or warrant recovery from, Defendants for such injuries.

13 WHEREAS, the Parties, in a good faith effort to facilitate discovery and prepare for mediation,
14 have met and conferred regarding, and agreed upon, the scope of Defendants' discovery relating to
15 Plaintiff P.C.'s mental health history and records;

16 WHEREAS, Plaintiff was unable to provide Defendants with the HIPAA releases required to
17 obtain such records until the last week of March 2016 and the first week of April 2016;

18 WHEREAS, Defendants issued and served subpoenas on Plaintiff's mental health providers
19 within a few days of receiving the HIPAA releases;

20 WHEREAS, Defendants have received records from the majority of Plaintiff P.C.'s mental
21 health providers, they have been unable – despite Plaintiffs having provided all requested
22 authorizations and despite Defendants' repeated efforts to procure cooperation and compliance with
23 the subpoenas from the mental health providers – to obtain records from the remaining providers
24 (including the primary therapist who treated Plaintiff both before and after the subject incident, and
25 the primary counseling facility that provided Plaintiff with individual and family counseling following
26 the subject incident);

27 WHEREAS, the Parties anticipate that Defendants will need to move the Court for an order
28 compelling the remaining providers to produce the outstanding records subpoenaed, but recognize that

1 there is insufficient time to obtain such order (including meeting and conferring and submitting a joint
2 letter brief to the court; and the filing of a properly noticed motion seeking orders compelling the
3 production of records from Plaintiff's providers), enforce the order, and then review and analyze the
4 records prior to the present mediation deadline;

5 WHEREAS, the Parties agree that the outstanding mental health records contain information
6 necessary to engage in a meaningful and productive mediation, and are essential to the parties and the
7 mediator's ability to evaluate Plaintiffs' claims, particularly concerning the issues of causation and
8 damages;

9 WHEREAS, Plaintiffs have been diligently pursuing discovery, but have had problems with a
10 number of Defendants' responses to Plaintiffs' Requests for Documents and Special Interrogatories;

11 WHEREAS, Plaintiffs have met and conferred with Defendants regarding their concerns about
12 Defendants' responses, and believe there is a way forward, but will not have the information they need
13 in time for the currently scheduled mediation;

14 WHEREAS, in light of the unanticipated further delay in obtaining Plaintiff P.C.'s mental
15 health records and the above-mentioned discovery issues, the Parties also believe and agree that there
16 exists good cause to continue the mediation deadline by 90 days, to allow the parties sufficient time to
17 take the steps necessary to compel, obtain, and review the outstanding records, and coordinate among
18 the parties and mediator to set a new mediation date;

19 WHEREAS, the Parties conferred with the mediator, Greta Schnetzler, and informed her of the
20 present circumstances, and said mediator stated that she was supportive of the requested continuance;

21 IT IS HEREBY STIPULATED, by and among the Parties to this action, that, based on the
22 foregoing, the Parties' June 22, 2016 deadline to complete mediation shall be **continued by 90 days**
23 and the July 21, 2016 status conference shall be vacated and rescheduled accordingly.

24 ***IT IS SO STIPULATED.***

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Dated: May 27, 2016

McCORMICK, BARSTOW, SHEPPARD,
WAYTE & CARRUTH LLP

By: /s/ STEPHANIE Y. WU
Stephanie Y. Wu
Attorneys for Defendants LIBERTY UNION
HIGH SCHOOL DISTRICT, ERIC VOLTA,
JOHN SAYLOR, PATRICK WALSH,
JENNIFER KOETT, ILENE FOSTER, and
SANDRA GUARDADO

Dated: May 27, 2016

LAW OFFICES OF TODD BOLEY

By: /s/ JUSTIN P. YOUNG
Justin P. Young
Attorneys for Plaintiffs SARAH
UNVERFERTH and P.C., a minor, by and
through his guardian ad litem SARAH
UNVERFERTH

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~~[PROPOSED]~~
ORDER

Pursuant to the foregoing Stipulation of the Parties, it is hereby ordered that:

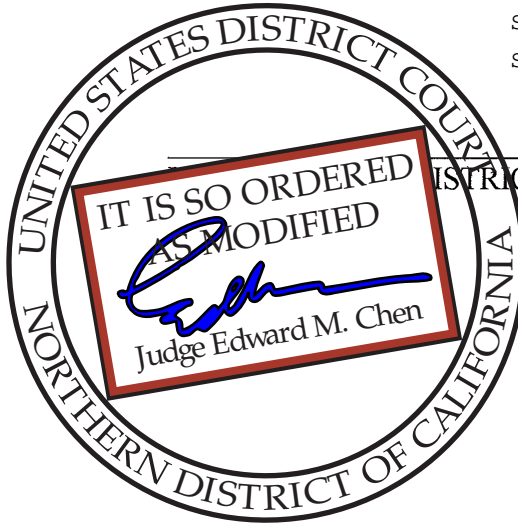
1. The Parties' June 22, 2016 deadline to complete **Mediation** is continued by 90 days to September 20, 2016, and

2. The July 21, 2016 **Further Status Conference** is continued to October 6, 2016 at 10:30 a.m. Joint Status Report due September 29, 2016.

IT IS SO ORDERED.

June 3
Dated: ~~May~~ ____, 2016

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DISTRICT COURT JUDGE