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18 UNITED STATES DISTRICT COURT
 19 FOR THE NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO/OAKLAND DIVISION

20 DAVID OSTER, *et al.*,

21 Plaintiffs,

v.

22 WILL LIGHTBOURNE, Director of the California
 23 Department of Social Services; TOBY DOUGLAS,
 Director of the California Department of Health Care
 24 Services; CALIFORNIA DEPARTMENT OF HEALTH
 CARE SERVICES; and CALIFORNIA DEPARTMENT
 25 OF SOCIAL SERVICES,

26 Defendants.

Case No. CV 09-04668 CW

**STIPULATION AND ORDER
 CONTINUING THE FURTHER
 CASE MANAGEMENT
 CONFERENCE PENDING
 RESOLUTION OF DEFENDANTS'
 PRELIMINARY INJUNCTION
 APPEALS IN THE NINTH
 CIRCUIT**

1 WHEREAS, a Case Management Conference is scheduled in this case for October 24,
2 2012;

3 WHEREAS, Defendants' preliminary injunction appeal with respect to ABX 4 4 is
4 currently pending in the Ninth Circuit, which has not yet issued its decision;

5 WHEREAS, oral argument on that appeal was heard and the matter submitted on June
6 15, 2010;

7
8 WHEREAS, the Ninth Circuit vacated the submission and deferred resolution of that
9 preliminary injunction appeal pending the United States Supreme Court's decision in the
10 consolidated appeals of *Douglas v. Indep. Living Ctr. of S. Cal., et al.*;

11 WHEREAS, the United Supreme Court has now issued its ruling in *Douglas*;

12 WHEREAS, on May 21, 2012, the Ninth Circuit ordered the parties to submit letter briefs
13 regarding the mootness impact upon the appeal, if any, of California Welfare & Institutions Code
14 §§12309(i) and 12309.2(e);

15 WHEREAS, those briefs were filed on July 20, 2012;

16
17 WHEREAS, Defendants filed a preliminary injunction appeal with respect to SB 73 on
18 February 21, 2012 and March 5, 2012;

19 WHEREAS, Defendants filed their opening brief on April 3, 2012; Plaintiffs filed their
20 answering brief on July 19, 2012 and Defendants filed their reply brief on August 16, 2012;

21
22 WHEREAS, the Ninth Circuit has not yet set a date for oral argument with respect to
23 Defendants' appeal of this Court's preliminary injunction regarding SB 73;

24 WHEREAS, a further case management conference had been set in this case for July 25,
25 2012, but was continued by agreement of the parties to October 24, 2012;

26 WHEREAS, the parties agree that it would be more efficient for the Court and the parties
27 to continue the further case management conference pending resolution of the preliminary
28 injunction appeals;

1 IT IS HEREBY STIPULATED between the parties through their respective counsel that,
2 subject to Court approval:

- 3 1. The further case management conference scheduled for October 24, 2012 is taken
4 off calendar.
5
6 2. A further case management conference is rescheduled for January 23, 2013, at
7 2:00 p.m.
8
9 3. The parties, by filing another Stipulation and [Proposed] Order, may request an
10 earlier or later date for the further case management conference depending on the
11 date(s) the Ninth Circuit issues its opinion(s).

12 Dated: October 15, 2012

Respectfully Submitted,

13
14 /s/ Melinda Bird
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6 Dated: October 15, 2012

Respectfully Submitted,

7 /s/ Susan M. Carson

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14
15 *Attorneys for Defendants*

16 GENERAL ORDER 45 ATTESTATION

17
18 I, Stacey Leyton, am the ECF user whose ID and password are being used to file this
19 stipulation. In compliance with General Order 45, X.B, I hereby attest under the penalty of
20 perjury that concurrence regarding filing this document has been obtained from each of its
21 signatories.

22
23 Dated: October 15, 2012

/s/ Stacey Leyton

24 Stacey Leyton

1 **ORDER**

2 GOOD CAUSE APPEARING, pursuant to stipulation and in light of the Ninth Circuit's
3 oral argument schedule in this case, the Case Management Conference scheduled for October 24,
4 2012 is continued to April 10, 2013.

5 IT IS SO ORDERED.

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8 Dated: 10/17/2012

9 
10 Hon. Claudia Wilken
11 United States District Judge
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