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18 **UNITED STATES DISTRICT COURT**
19 **CENTRAL DISTRICT OF CALIFORNIA**
20 **SOUTHERN DIVISION**

22 JANE DOE, *et al.*,

23 *Plaintiffs.*

24 v.

25 ROB BONTA, in his official capacity as
26 Attorney General; *et al.*,

27 *Defendants.*

No. 8:19-cv-02105 DOC (ADSx)

**STIPULATION TO CONTINUE
SUMMARY JUDGMENT
HEARING, PRETRIAL
DEADLINES, AND TRIAL DATE**

Judge David O. Carter

Date: n/a
Time: n/a
Trial Date: August 30, 2022

1 Plaintiffs Jane Doe; Stephen Albright; American Kidney Fund, Inc., Dialysis
2 Patient Citizens, Inc., Fresenius Medical Care Orange County, LLC; DaVita Inc.;
3 Fresenius Medical Care Holdings, Inc., doing business as Fresenius Medical Care
4 North America; and U.S. Renal Care, Inc. (collectively, “Plaintiffs”), and
5 Defendants Rob Bonta, in his Official Capacity as Attorney General of California;
6 Ricardo Lara, in his Official Capacity as the Director of the California Department
7 of Insurance; Mary Watanabe, in her Official Capacity as Director of the California
8 Department of Managed Health Care; and Tomás J. Aragón, in his official capacity
9 as Acting Director of the California Department of Public Health (collectively,
10 “Defendants”), by and through their attorneys of record, hereby stipulate and agree
11 as follows:

12 WHEREAS, on February 25, 2022, the parties filed cross motions for
13 summary judgment (ECF Nos. 128, 132; *see also Fresenius* docket, Case No. 8:19-
14 cv-2130, ECF Nos. 152, 153), which were originally scheduled to be heard on May
15 2, 2022;

16 WHEREAS, on April 20, 2022, the parties filed a Stipulation to Continue
17 Pretrial Deadlines and Trial Date (ECF No. 173) (the “April 20 Stipulation”), in
18 which the parties agreed to vacate the trial date and all pending pretrial deadlines
19 pending resolution of the cross motions for summary judgment;

20 WHEREAS, the Court granted the April 20 Stipulation on April 22, 2022;

21 WHEREAS, the Court re-set the trial date for August 30, 2022, but
22 acknowledged at an April 26, 2022 Status Conference that the new trial date was a
23 “placeholder date” that could be adjusted were the case not resolved on summary
24 judgment;

25 WHEREAS, on April 28, 2022, the Court continued the hearing on the cross
26 motions for summary judgment to June 9, 2022 (ECF No. 182);

27 WHEREAS, on June 7, 2022, the Court further continued the hearing on the
28 cross motions for summary judgment to July 25, 2022, directing the parties to

1 submit “new scheduling dates as necessary” by June 15, 2022 (ECF No. 186);

2 WHEREAS, Defendants’ counsel, S. Clinton Woods, who will be presenting
3 argument at the hearings on the cross motions for summary judgment, is
4 unavailable on July 25, 2022, due to a pre-planned vacation;

5 WHEREAS, Plaintiffs’ counsel are available to proceed with the hearing on
6 July 25, 2022, but do not oppose Defendants’ request to reschedule the hearing to
7 accommodate the schedule of Defendants’ counsel;

8 WHEREAS, counsel for all parties have conferred and propose that the
9 Court vacate and reschedule the July 25, 2022 hearing for one of the following
10 alternative hearing dates, when counsel for all parties will be available: September
11 6, 2022; September 7, 2022; September 8, 2022, September 27, 2022, September
12 28, 2022, September 29, 2022, or September 30, 2022;

13 WHEREAS, if the Court cannot reschedule the hearing for one of the
14 alternative hearing dates, counsel for all parties request a status conference to
15 discuss an appropriate date to reschedule the hearing;

16 WHEREAS, the parties are aware of and sensitive to the fact that the Court
17 is faced with a significant backlog of trials due to the COVID-19 pandemic, which
18 could in any event necessitate a continuance of the current August 30, 2022 trial
19 date in these cases;

20 WHEREAS, the parties have met and conferred and agree that it would
21 promote both party and judicial efficiency to continue the current placeholder trial
22 date of August 30, 2022 now, given the likelihood that it will need to be continued
23 later to permit time for resolution of the summary judgment motions, and given the
24 Court and the parties’ schedules;

25 WHEREAS, the parties have met and conferred, and continue to agree that,
26 in light of the challenges associated with identifying a trial date that is convenient
27 for all parties and their counsel, it would be in the interest of both judicial and
28 party efficiency to defer the scheduling of pretrial deadlines until after the cross

1 motions for summary judgment have been resolved, at which time the parties will
2 know which, if any, claims and factual issues remain for trial and require the
3 parties' pretrial preparation;

4 WHEREAS, the parties accordingly agree that, consistent with the Court's
5 order granting the April 20 Stipulation, good cause exists to continue all pretrial
6 deadlines and the August 30, 2022 trial date, pending a resolution of the pending
7 cross motions for summary judgment. If the Court would instead prefer to set a
8 new placeholder trial date, the parties respectfully suggest that the Court select
9 February 21, 2023. The parties submit that date will likely allow the Court to
10 decide the cross motions for summary judgment and will avoid burdening the
11 parties or the Court with trial preparation over issues of law or fact that may be
12 resolved on summary judgment.

13 NOW, THEREFORE, Plaintiffs and Defendants, by and through their
14 attorneys of record, stipulate as follows:

15 1. The hearing on the pending cross motions for summary judgment shall be
16 rescheduled to one of the following dates: September 6, 2022; September 7, 2022;
17 September 8, 2022, September 27, 2022, September 28, 2022, September 29, 2022,
18 or September 30, 2022.

19 2. The trial date and all pretrial deadlines shall be vacated pending resolution
20 of the pending cross motions for summary judgment. Within fourteen (14) days of
21 the Court's order resolving the pending cross motions for summary judgment, the
22 parties shall submit to the Court a joint report containing the parties' collective
23 and/or respective positions on a pretrial schedule for any remaining claims, and
24 any other remaining deadlines consistent with the Court's rulings on the motions
25 for summary judgment. In the alternative, the parties agree that the Court should
26 continue the trial date to February 21, 2023, and set a Final Pretrial Conference for
27 February 13, 2023, with the mutual understanding among all parties and the Court
28 that these dates are placeholders pending further consideration after resolution of

1 the cross motions for summary judgment.

2
3 Dated: June 15, 2022

Respectfully submitted,

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***Attorneys for Plaintiffs Jane Doe,
Stephen Albright, American Kidney
Fund, Inc., and Dialysis Patient
Citizens, Inc.***

ATTESTATION

I, Kelly Dunbar, hereby attest that all other signatories listed above concur in this filing's content and have authorized me to make this filing.

Dated: June 15, 2022

/s /Kelly Dunbar

Kelly Dunbar