

1 XAVIER BECERRA  
Attorney General of California  
2 MARK R. BECKINGTON  
Supervising Deputy Attorney General  
3 S. CLINTON WOODS  
Deputy Attorney General  
4 MATTHEW WISE  
Deputy Attorney General  
5 LISA J. PLANK, State Bar No. 153737  
Deputy Attorney General  
6 455 Golden Gate Ave, Suite 11000  
San Francisco, CA 94102  
7 Telephone: (415) 510-4445  
Fax: (415) 703-1234  
8 E-mail: Lisa.Plank@doj.ca.gov  
Attorneys for Defendants Xavier Becerra,  
9 Ricardo Lara, Shelly Rouillard, and Sandra  
Shewry,<sup>1</sup> in their official capacities

10 IN THE UNITED STATES DISTRICT COURT  
11 FOR THE CENTRAL DISTRICT OF CALIFORNIA  
12 SOUTHERN DIVISION  
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14 **JANE DOE; STEPHEN ALBRIGHT;**  
15 **AMERICAN KIDNEY FUND, INC.;**  
16 **and DIALYSIS PATIENT**  
**CITIZENS, INC.,**

17 Plaintiffs,

18 v.

19 **XAVIER BECERRA, in his Official**  
20 **Capacity as Attorney General of**  
21 **California; RICARDO LARA in his**  
22 **Official Capacity as California**  
23 **Insurance Commissioner; SHELLY**  
24 **ROUILLARD in her official Capacity**  
25 **as Director of the California**  
26 **Department of Managed Health**  
27 **Care; and SONIA ANGELL, in her**  
28 **Official Capacity as Director of the**  
**California Department of Public**  
**Health,**

Defendants.

Case. No. 8:19-cv-2105-DOC-(ADSx)

**STIPULATED REQUEST TO**  
**CONTINUE SUSPENSION OF**  
**CASE SCHEDULE AND SET**  
**OCTOBER 12, 2020, DEADLINE**  
**FOR FILING JOINT STATUS**  
**REPORT**

Date: n/a  
Time: n/a  
Courtroom: 9D  
Judge: Hon. David O. Carter  
Trial Date: n/a  
Action Filed: 11/1/2019

<sup>1</sup> Defendant Sandra Shewry, the current Acting Director of the California Department of Public Health, is automatically substituted for Defendant Sonia Angell as a defendant. Fed. R. Civ. P. 25(d).

1 Defendants Xavier Becerra, in his Official Capacity as Attorney General of  
2 California; Ricardo Lara in his Official Capacity as California Insurance  
3 Commissioner; Shelly Rouillard in her Official Capacity as Director of the  
4 California Department of Managed Health Care; and Sonia Angell, in her Official  
5 Capacity as Director of the California Department of Public Health (“Defendants”),  
6 and Plaintiffs Jane Doe; Stephen Albright; American Kidney Fund, Inc.; and  
7 Dialysis Patient Citizens, Inc. (“Plaintiffs”), by and through their attorneys of  
8 record, hereby stipulate and agree as follows:

9 WHEREAS, the Court previously entered a scheduling order in this case and  
10 in *Fresenius Medical Care Orange County, et al. v. Becerra, et al.* case no. 8:19-  
11 cv-02130, negotiated by all parties, under which both cases would proceed to trial  
12 on July 14, 2020 (ECF No. 67);

13 WHEREAS, that schedule provided that the discovery period in the case  
14 would close on April 3, 2020, and that a hearing on summary judgment motions  
15 would occur on June 1, 2020;

16 WHEREAS, on March 13, 2020, President Donald J. Trump declared a  
17 National Emergency in connection with the novel coronavirus (COVID 19)  
18 outbreak;

19 WHEREAS, the State of California and various cities and counties throughout  
20 the state have declared states of emergency;

21 WHEREAS, on March 19, 2020, California Governor Gavin Newsom issued a  
22 shelter-in-place order for the entire state of California, which has been modified by  
23 several subsequent orders but is still in place with no set end date having been  
24 announced;

25 WHEREAS, several counties, including Sacramento County, where the  
26 majority of Defendants’ personnel reside and documents are located, counties in the  
27 Bay Area and Los Angeles County, remain under modified shelter-in-place  
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1 orders that impose varying limitations on activities within those counties;

2 WHEREAS, Defendants in this case include the California Department of  
3 Public Health, the California Department of Managed Health Care, and the  
4 California Department of Insurance, certain elements of which are currently  
5 focusing many of their resources on the State's response to the COVID 19 crisis;

6 WHEREAS, these circumstances have interfered with the parties' ability to  
7 proceed with and complete written discovery and the production of documents as  
8 provided by the existing case schedule;

9 WHEREAS, in addition to the circumstances described above, travel  
10 advisories and other logistical considerations related to COVID 19 have presented  
11 obstacles to conducting the depositions of fact and expert witnesses, particularly  
12 those who are themselves subject to orders or directives to shelter in place or refrain  
13 from travelling;

14 WHEREAS, on March 24, 2020, the Court entered an order approving the  
15 parties' stipulation to suspend case deadlines indefinitely and directing the parties  
16 to submit a joint status conference statement on or before April 8, 2020 (ECF No.  
17 72).

18 WHEREAS, on April 9, 2020, the Court entered another order approving the  
19 parties' further stipulation to suspend case deadlines indefinitely and directing the  
20 parties to submit a joint status conference statement on or before May 8, 2020, and  
21 vacating the previously set pretrial and trial dates. (ECF No. 75).

22 WHEREAS, on May 13, 2020, the Court entered another order approving the  
23 parties' further stipulation to suspend case deadlines indefinitely and directing the  
24 parties to submit a joint status conference statement on or before June 8, 2020, and  
25 vacating the previously set pretrial and trial dates. (ECF No. 77).

26 WHEREAS, on June 15, 2020, the Court entered another order approving the  
27 parties' further stipulation to suspend case deadlines indefinitely and directing the  
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1 parties to submit a joint status conference statement on or before July 10, 2020.  
2 (ECF No. 79).

3 WHEREAS, on July 13, 2020, the Court entered another order approving the  
4 parties' further stipulation to suspend case deadlines indefinitely and directing the  
5 parties to submit a joint status conference statement on or before August 10, 2020.  
6 (ECF No. 81).

7 WHEREAS, on August 14, 2020, the Court entered another order approving  
8 the parties' further stipulation to suspend case deadlines indefinitely and directing  
9 the parties to submit a joint status conference statement on or before September 10,  
10 2020. (ECF No. 89).

11 WHEREAS, the parties had intended to propose a revised schedule for the  
12 remaining weeks of the discovery period, summary judgment briefing and hearing,  
13 and pre-trial and trial dates on September 10, 2020, but California has experienced  
14 deteriorating conditions in some counties regarding the rate of COVID 19  
15 infections that again require the attention of key personnel at the Defendant  
16 agencies and present logistical obstacles to proceeding with discovery and  
17 depositions;

18 WHEREAS, the parties have agreed to further extend the current deadlines for  
19 responding to discovery requests already propounded in the case;

20 WHEREAS, discovery must be completed before summary judgment motions  
21 may be filed;

22 WHEREAS, the parties nevertheless believe that the case should proceed on  
23 an expedited schedule once the COVID 19 crisis abates sufficiently to allow  
24 litigation to continue, and have agreed to meet-and-confer at that time to attempt to  
25 come to a schedule that approximates the prior time frame as closely as is  
26 practically possible once litigation can resume;

27 NOW, THEREFORE, Plaintiffs and Defendants, by and through their  
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1 attorneys of record, submit this stipulated request that the Court continue to  
2 suspend future deadlines in this case for discovery, including the exchange of  
3 rebuttal expert reports, the filing and hearing of summary judgment motions, and  
4 suspend the pre-trial conference and trial. Barring continued worsening of the  
5 pandemic or additional unforeseen circumstances, on or before October 12, 2020,  
6 the parties will file a joint report proposing a revised schedule for the remaining  
7 weeks of the discovery period, summary judgment briefing and hearing, and pre-  
8 trial and trial dates.

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1 Dated: September 10, 2020

Respectfully submitted,

XAVIER BECERRA  
Attorney General of California  
MARK R. BECKINGTON  
Supervising Deputy Attorney General

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*/s/ Lisa J. Plank*  
\_\_\_\_\_  
LISA J. PLANK  
Deputy Attorney General  
*Attorneys for Defendants Xavier  
Becerra, Ricardo Lara, Shelly  
Rouillard, and Sandra Shewry, in  
their official capacities*

10 Dated: September 10, 2020

KING & SPALDING LLP

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*/s/ Joseph N. Akrotirianakis*  
\_\_\_\_\_  
JOSEPH N. AKROTIRIANAKIS  
BOBBY R. BURCHFIELD  
*Attorneys for Plaintiffs Jane Doe,  
Stephen Albright, American Kidney  
Fund, Inc., and Dialysis Patient  
Citizens, Inc.*

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19 I, Lisa J. Plank, hereby attest that all other signatories listed above concur in  
20 this filing's content and have authorized me to make this filing.

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22 Dated: September 10, 2020

*/s/ Lisa J. Plank*  
\_\_\_\_\_  
Lisa J. Plank

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### CERTIFICATE OF SERVICE

Case Name: *Jane Doe, et al v. Xavier* Case No. **8:19-cv-2105-DOC-(ADSx)**  
Name: *Becerra, et al.*

I hereby certify that on September 10, 2020, I electronically filed the following documents with the Clerk of the Court by using the CM/ECF system:

- **STIPULATED REQUEST TO CONTINUE SUSPENSION OF CASE SCHEDULE AND SET OCTOBER 12, 2020, DEADLINE FOR FILING JOINT STATUS REPORT**
- **[PROPOSED] ORDER GRANTING STIPULATED REQUEST TO CONTINUE SUSPENSION OF CASE SCHEDULE AND SET OCTOBER 12, 2020, DEADLINE FOR FILING JOINT STATUS REPORT**

I certify that **all** participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

I declare under penalty of perjury under the laws of the State of California and the United States of America the foregoing is true and correct and that this declaration was executed on September 10, 2020, at San Francisco, California.

Vanessa Jordan  
Declarant

/s/ Vanessa Jordan  
Signature