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Shewry,¹ 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
NOVEMBER 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

¹ 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 Sandra Shewry, in her Official
5 Capacity as Acting Director of the California Department of Public Health
6 (“Defendants”), and Plaintiffs Jane Doe; Stephen Albright; American Kidney Fund,
7 Inc.; and Dialysis Patient Citizens, Inc. (“Plaintiffs”), by and through their attorneys
8 of 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, on September 11, 2020, the Court entered another order
12 approving the parties' further stipulation to suspend case deadlines indefinitely and
13 directing the parties to submit a joint status conference statement on or before
14 October 12, 2020. (ECF No. 91)

15 WHEREAS, the parties had intended to propose a revised schedule for the
16 remaining weeks of the discovery period, summary judgment briefing and hearing,
17 and pre-trial and trial dates on October 12, 2020, but California has
18 continued to experience exceptional demands related to the COVID 19 pandemic
19 that require the attention of key personnel at the Defendant agencies and present
20 logistical obstacles to proceeding with discovery and depositions;

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

23 WHEREAS, discovery must be completed before summary judgment motions
24 may be filed;

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

3 NOW, THEREFORE, Plaintiffs and Defendants, by and through their
4 attorneys of record, submit this stipulated request that the Court continue to
5 suspend future deadlines in this case for discovery, including the exchange of
6 rebuttal expert reports, the filing and hearing of summary judgment motions, and
7 suspend the pre-trial conference and trial. Barring continued worsening of the
8 pandemic or additional unforeseen circumstances, on or before November 12, 2020,
9 the parties will file a joint report proposing a revised schedule for the remaining
10 weeks of the discovery period, summary judgment briefing and hearing, and pre-
11 trial and trial dates. The parties will also continue to meet-and-confer about
12 potential ways to streamline aspects of the discovery process or otherwise expedite
13 the litigation in the meantime.

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1 Dated: October 12, 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: October 12, 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: October 12, 2020

/s/ Lisa J. Plank

Lisa J. Plank

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CERTIFICATE OF SERVICE

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

I hereby certify that on October 12, 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 NOVEMBER 12, 2020, DEADLINE FOR FILING JOINT STATUS REPORT**
- **[PROPOSED] ORDER GRANTING STIPULATED REQUEST TO CONTINUE SUSPENSION OF CASE SCHEDULE AND SET NOVEMBER 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 October 12, 2020, at San Francisco, California.

Vanessa Jordan
Declarant

/s/ Vanessa Jordan
Signature