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6 WESLEY WEIDNER

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9 UNITED STATES DISTRICT COURT  
10 DISTRICT OF NEVADA

11 WESLEY WEIDNER,

CASE NO. 2:16-cv-02301-KJD-NJK

12 Plaintiff,

13 v.

14 **STIPULATION AND ORDER TO EXTEND**  
15 **DISCOVERY AND REMAINING CASE**  
16 **MANAGEMENT DEADLINES**

(Seventh Request)

17 In the Name of the STATE OF NEVADA on  
18 relation of the NEVADA DEPARTMENT OF  
CORRECTIONS; DIRECTOR GREG COX,  
19 individually; WARDEN DWIGHT NEVEN,  
individually; ASSISTANT WARDEN  
TIMOTHY FILSON, individually;  
20 CORRECTIONS OFFICER FRANCO,  
individually; ASSOCIATE WARDEN  
JENNIFER NASH, individually;  
21 CASEWORKER STACY BARRETT,  
individually; INSPECTOR GENERAL DAVID  
MOLNAR, individually; INSPECTOR BRIAN  
SHIELDS, individually; INSPECTOR VICTOR  
DANIELS, individually; INSPECTOR STEVE  
LEMAIRE, individually; SENIOR C.O.  
22 NORMAN, individually; DOE LICENSED  
PRACTICAL NURSE; DOE CORRECTION  
23 OFFICERS I-V; DOES I-X, inclusive; and  
ROES I-X, inclusive,

24 Defendants.

1 Plaintiff Wesley Weidner, by and through counsel, Marc A. Saggese, Esq., and Defendants  
2 State of Nevada, Greg Cox, Dwight Neven, Timothy Filson, Joseph Franco, Jennifer Nash, Stacy  
3 Barrett, David Molnar, Brian Shields, Victor Daniels, Steve Lemaire, and Antoine Norman, by and  
4 through counsel, Adam Paul Laxalt, Nevada Attorney General, and Jared M. Frost, Senior Deputy  
5 Attorney General, hereby stipulate and agree to extend the discovery period and remaining case  
6 scheduling deadlines for an additional forty five (45) days.

7 **I. BACKGROUND**

8 This is an inmate civil rights and tort action seeking damages for alleged actions or omissions of  
9 staff at High Desert State Prison (HDSP) in Indian Springs, Nevada. Plaintiff is represented by  
10 counsel. Plaintiff filed his original Complaint in state court on June 9, 2016. Plaintiff filed an  
11 Amended Complaint on August 26, 2016. Defendants removed the case to federal court in September  
12 2016. ECF No. 1; see also ECF No. 1-3 (Amended Complaint).

13 On October 26, 2016, Defendants Filson, Neven, Daniels, Molnar, Shields, Franco, Barrett,  
14 Nash, Norman, and Lemaire filed an Answer.

15 On January 17, 2017, the Court granted the parties' second joint motion to extend all scheduling  
16 deadlines. ECF No. 15. Pursuant to this order, the deadline to add parties or amend pleadings was  
17 March 24, 2017, and discovery was set to close on June 26, 2017. *Id.*

18 On February 17, 2017, Defendant State of Nevada filed a Joinder to Defendants' Answer. ECF  
19 No. 17.

20 On March 2, 2017, the Court granted the parties' third joint motion to extend discovery  
21 deadlines. ECF No. 19. Pursuant to this order, discovery was set to close on August 25, 2017. *Id.* at 3.

22 On April 26, 2017, Defendant Cox filed a Joinder to Defendants' Answer. ECF No. 20.

23 On April 27, 2017, Defendants filed a motion for partial judgment on the pleadings. ECF No.  
24 21. In their motion, Defendants argue that the State of Nevada should be dismissed as to Count I  
25 because states are not proper defendants for section 1983 claims, and that Counts II and III should be  
26

1 dismissed because Plaintiff failed to comply with Nevada's mandatory naming requirement. See ECF  
2 No. 21.

3 On May 16, 2017, Plaintiff filed a motion to amend the Amended Complaint. ECF No. 24.  
4 Plaintiff also filed an opposition to Defendants' motion for partial judgment on the pleadings. ECF No.  
5 25.

6 On May 23, 2017, Plaintiff filed another motion to amend the Amended Complaint. ECF No.  
7 26.

8 On May 23, 2017, Defendants filed a reply brief concerning their motion for partial judgment  
9 on the pleadings. ECF No. 27.

10 On May 26, 2017, the parties filed a joint interim status report. ECF No. 28.

11 On July 28, 2017, the Court granted the parties' fourth joint motion to extend discovery  
12 deadlines. ECF No. 36. Pursuant to this order, discovery was set to close on November 23, 2017. Id. at  
13 4.

14 On October 5, 2017, Plaintiff's counsel, the Potter Law Office, requested to withdraw  
15 from this matter. ECF No. 38.

16 On October 5, 2017, the Court granted the motion to withdraw. ECF No. 40.

17 On October 11, 2017, the Court granted Defendants' motion to stay the proceedings pending a  
18 determination as to Plaintiff's future representation and directed Plaintiff to file notice of whether he  
19 intends to proceed without counsel by November 6, 2017. ECF No. 41.

20 On November 2, 2017, the Court granted Plaintiff's motion to extend the time to file his  
21 representation notice until January 26, 2017. ECF No. 43. Pursuant to the order, the parties were  
22 directed to file a proposed Discovery Plan and Scheduling Order within fourteen (14) days of Plaintiff  
23 filing his notice. Id.

24 On November 30, 2017, the Court granted in part and denied in part Defendants' Motion for  
25 Partial Dismissal. ECF No. 44. Pursuant to the order, Plaintiff was directed to amend his Complaint  
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1 within fourteen (14) days. ECF No. 44; see also ECF No. 44 (Plaintiff's Motion to enlarge the time to  
2 file an Amended Complaint for an additional 60 days).

3 On January 12, 2018, Attorney Marc A. Saggese filed an appearance on behalf of Plaintiff. ECF  
4 No. 46.

5 On January 26, 2018, the Court entered an order approving the parties' joint discovery plan and  
6 scheduling order. ECF No. 48. Pursuant to the order, all discovery was to be completed by April 26,  
7 2018. Id. at 5.

8 On February 16, 2018, Plaintiff filed a Fourth Amended Complaint pursuant to this Court's  
9 prior order. ECF No. 50; see also ECF No. 51 (granting Plaintiff's motion to extend the time to file and  
10 serve the Fourth-Amended Complaint).

11 On March 8, 2018, the Court granted the parties' sixth joint motion to extend discovery  
12 deadlines. ECF No. 53. Pursuant to this order, discovery was set to close on July 25, 2018.

13 This stipulated seventh request to extend the discovery deadlines and remaining case  
14 management deadlines follows.

## 15 **II. INFORMATION REQUIRED BY LOCAL RULE 26-4**

16 The parties provide the following information in accordance with Local Rule 26-4.

### 17 **A. Discovery completed**

18 Plaintiff and Defendants have produced initial and supplemental disclosures.

19 Defendants have responded to Plaintiff's first set of Requests for Production of Documents.

20 Defendants have responded to Plaintiff's interrogatories to Defendant State of Nevada.

21 Defendants have responded to Plaintiff's interrogatories to Dwight Neven.

22 Defendant Neven has served Plaintiff with interrogatories.

23 Plaintiff has responded to Defendants' First Set of Requests for Admissions.

24 Plaintiff has responded to Defendant Filson's First Set of Interrogatories.

25 Plaintiff has taken the deposition of inmates Donald Hinton and James Hand.

1 Plaintiff has responded to Defendant Neven's First Set of Interrogatories.

2 Plaintiff has responded to Defendant Franco's First Set of Interrogatories.

3 Plaintiff has responded to Defendant Nash's First Set of Interrogatories.

4 Plaintiff has served all named Defendants with interrogatories, requests for production of  
5 documents, and requests for admissions.

6 Defendants Daniel, Barrett, LeMaire, Filson, and Norman have responded to Plaintiff's  
7 interrogatories and requests for admissions.

8 **B. Discovery that remains to be completed**

9 Both parties have sought to retain medical experts who will evaluate Plaintiff's injuries and  
10 provide key information concerning damages and future treatment needs. Plaintiff has recently been  
11 transported to Southern Nevada and has been examined by Defendant's medical expert. Defendants  
12 require additional time to prepare their expert reports. Plaintiff requires additional time to identify its  
13 own medical expert and produce a report. Additionally, Plaintiff will be deposed on June 5, 2018, at  
14 High Desert State Prison.

15 Plaintiff intends to take approximately nine (9) to ten (10) depositions of NDOC employees and  
16 inmates.

17 Plaintiff needs to supplement his computation of damages.

18 Defendants need to respond to Plaintiff's remaining interrogatories, requests for production of  
19 documents, and requests for admissions.

20 **C. Reasons why the deadlines were not satisfied**

21 Since the Court approved the parties' sixth joint motion to extend discovery on March 8, 2018,  
22 Plaintiff has served Defendants with additional discovery requests. Additionally, both parties have  
23 contacted potential experts concerning the case. However, the parties will be unable to complete  
24 necessary discovery in this matter prior to the expiration of this Court's deadlines due to the need to  
25 conduct Plaintiff's deposition, produce expert reports, and obtain Plaintiff's x-rays and MRI imaging.

1 Furthermore, both parties desire additional time to review responses to written discovery, some of  
2 which is yet to be served, and determine what additional discovery may be necessary.

3 **D. Proposed schedule for remaining deadlines**

4 After conferring as to the needs of the case, the parties propose the following schedule for  
5 discovery and the remaining deadlines, to include an additional forty five (45) day discovery period  
6 beginning June 25, 2018.

7	Expert disclosure deadline	July 9, 2018
8	Close of discovery and rebuttal expert deadline	August 9, 2018
9	Discovery motion deadline	September 10, 2018
10	Dispositive motion deadline	October 8, 2018

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1 The parties here state that their proposed discovery plan is made in good faith and not sought  
2 for delay or any improper purpose, and that the additional time is needed to allow the parties to  
3 complete discovery and adequately prepare the case for trial or other resolution.

4 DATED this 16th day of May, 2018.

DATED this 16th day of May, 2018.

5 SAGGESE & ASSOCIATES, LTD.

ADAM PAUL LAXALT  
Attorney General

7 By: /s/ Marc A. Saggese  
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Attorneys for Defendants

11  
12 **SO ORDERED.**

13 Dated May 17, 2018

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UNITED STATES MAGISTRATE JUDGE