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17 IN THE UNITED STATES DISTRICT COURT  
 18 FOR THE EASTERN DISTRICT OF CALIFORNIA  
 19 FRESNO DIVISION

22 **BRUCE PATRICK HANEY,**  
 23 Plaintiff,  
 24 v.  
 25 **R. SALDANA, et al.,**  
 26 Defendants.

1:04-CV-05935- AWI-SMS-PC  
**SECOND JOINT APPLICATION TO  
 MODIFY PRE-TRIAL AND TRIAL  
 DEADLINES; STIPULATION AND  
 ORDER**

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1 **JOINT APPLICATION**

2 The parties hereby seek a further extension of the pre-trial and trial deadlines to permit the  
3 parties to continue their good-faith settlement discussions, while staying expensive fact and  
4 expert discovery until the parties can ascertain whether they will reach a settlement. The parties  
5 have been diligent during the previously-granted two-month extension, engaging in productive  
6 settlement discussions that find the parties optimistic that a settlement can ultimately be reached.  
7 However, the logistics involved for each party’s counsel to obtain settlement authorization have  
8 resulted in a slower-than-usual pace for the parties’ discussions. As a result, the parties require  
9 additional time, and respectfully request that this Court modify the scheduling order as requested  
10 herein.

11 District courts are required to construe and apply the Federal Rules of Civil Procedure to  
12 “secure the just, speedy, and inexpensive determination of every action,” and may modify a  
13 scheduling order for good cause. Fed. R. Civ. P. 1, 16(b)(4). Good cause exists when a deadline  
14 cannot be met despite due diligence. *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609  
15 (9th Cir. 1992). A reviewing court’s inquiry focuses on the moving party’s reasons for seeking  
16 modification. *Id.*

17 Here, good cause exists to modify the scheduling order because the parties have diligently  
18 pursued settlement for the past two months, making significant progress while deferring (and  
19 perhaps avoiding entirely) the costs of additional discovery. The parties are now much closer to  
20 an agreement than they were in September, and a further extension is thus warranted to prevent  
21 the parties from incurring additional discovery expenses (in particular, retaining experts and  
22 conducting out-of-state depositions) which may prove needless if the settlement discussions result  
23 in an agreement. Moreover, the period of extension sought for the discovery deadlines—  
24 approximately three months—is appropriate given the complexities involved for Defendants in  
25 obtaining settlement authorization and for Plaintiff in receiving notice of settlement figures  
26 because of his incarceration in Los Angeles County Jail.<sup>1</sup> If the parties are unable to reach an

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28 <sup>1</sup> California jails are administered by the counties, not the CDCR.

1 agreement in the near future, the extension should allow the parties sufficient time to resume their  
2 efforts to complete the remaining discovery necessary to prepare this action for trial.

3 The parties agree that good cause exists to modify the Scheduling Order. The parties have  
4 obtained one prior extension in this matter, and they anticipate that the presently requested  
5 extension will allow sufficient time for the parties to determine whether an agreement will be  
6 reached. The parties stipulate to the pre-trial and trial deadlines delineated in the attached  
7 stipulation and proposed order, and respectfully request that the Court modify the current  
8 deadlines accordingly.

9 **STIPULATION AND ORDER**

10 The parties, through their respective counsel of record, hereby AGREE and STIPULATE  
11 that the Court's September 19, 2013 Amended Scheduling Order (ECF No. 117) shall be  
12 modified as follows:

- 13 1. The deadline to designate an expert and exchange any expert report(s) shall be  
14 Tuesday, February 11, 2014;
- 15 2. The Supplemental Expert Disclosure and Non-Expert Discovery Deadlines shall  
16 be Monday, March 10, 2014;
- 17 3. The deadline for filing any Non-Dispositive Motion shall be Monday, March 10,  
18 2014;
- 19 4. The Expert Discovery Deadline shall be Friday, April 11, 2014;
- 20 5. The deadline for filing any Dispositive Motions shall be Friday, April 11, 2014;
- 21 6. A Settlement Conference, if required, shall occur on Wednesday, May 14, 2014, or  
22 on such other date as is convenient for the Court;
- 23 7. The pre-trial conference shall be held on Wednesday, ~~August 6~~ July 16 (/s/SMS),  
24 2014, or on such other date as is convenient for the Court;

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8. A jury trial shall begin on ~~Mon~~ Wednesday, September 13(/s/SMS), 2014  
(estimated 3-5 days), or on such other date as is convenient for the Court.

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Dated: November 12, 2013

Dated: November 12, 2013

*/s/ Jaime M. Ganson (as authorized on 11/12/13)*

*/s/ Stephanie L. Noble*

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*Attorneys for Defendants  
Nelson and Saldana*

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STEPHANIE L. NOBLE  
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*Attorney for Plaintiff  
Bruce Patrick Haney*

**IT IS SO ORDERED.**

Dated: 11/18/2013

/s/ SANDRA M. SNYDER  
UNITED STATES MAGISTRATE JUDGE