

1 **P O R T E R | S C O T T**

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10 DEPUTY J. WALSH, SHERIFF DEPUTY JOSHUA HOUTCHENS, PUBLIC WORKS  
11 EMPLOYEE STEVE GREEN, MATTHEW ERIKSON PUBLIC WORKS DIRECTOR  
12 FOR THE CITY OF WATERFORD, SHERIFF ADAM CHRISTIANSON

13 **UNITED STATES DISTRICT COURT**  
14 **EASTERN DISTRICT OF CALIFORNIA**

15 JAMES ALBERT WELLS and JUDY C.  
16 WELLS,

Case No. 1:08-CV-01146-OWW-GSA

17 Plaintiffs,

**[Judge Oliver W. Wanger,  
United States District Judge]**

18 vs.

**STIPULATION AND ORDER  
MODIFYING PRE - TRIAL  
SCHEDULING ORDER**

19 COUNTY OF STANISLAUS; DEPUTY  
20 FRANK ALVES; DEPUTY J. WALSH;  
21 CITY OF WATERFORD; SHERIFF  
22 DEPUTY JOSHUA HOUTCHENS;  
23 PUBLIC WORKS EMPLOYEE STEVE  
24 GREEN; MATTHEW ERICKSON  
25 PUBLIC WORKS DIRECTOR FOR THE  
26 CITY OF WATERFORD; SHERIFF  
27 ADAM CHRISTIANSON TASER  
28 INTERNATIONAL; ROB JACKSON  
CHIEF OF POLICE SERVICES; and  
Does 1 through 25, inclusive.

Defendants.

\_\_\_\_\_ /

IT IS HEREBY STIPULATED AND AGREED by and between plaintiffs James  
Albert Wells and Judy Wells, and Defendants County of Stanislaus, Deputy Frank Alves,  
Deputy J. Walsh, Sheriff Deputy Joshua Houtchens, Public Works Employee Steve Green,  
Matthew Erikson Public Works Director for the City of Waterford, and Sheriff Adam  
Christianson, by through their undersigned Counsel, pursuant to USDC EDCA Local Rules  
83-143 and 6-144 (d) as follows:

1           1.       The parties respectfully request that the District Court modify the Pre Trial  
2 Scheduling Order based on good cause appearing therefor as more fully set forth below:

3           2.       This action arises out of alleged violations of Federal Civil Rights and State  
4 Law Claims against defendant County of Stanislaus, Sheriff Christianson, Deputy Sheriffs  
5 Alves, Houtchens and Walsh (“County”) as well as City of Waterford Public Works  
6 employees Erickson and Green (“City”) in connection with the death of Plaintiffs’ son, James  
7 Wells.

8           3.       Following the filing and service of the complaint in this case, the County and  
9 City defendants retained counsel Dan Farrar to represent them. At some point in late  
10 November and mid-December, 2009, the County and City defendants determined that they  
11 would retain Terrence J. Cassidy of Porter Scott to represent them in place of Mr. Farrar in  
12 the defense of this case. Counsel commenced coordinating the obtaining of all of the file  
13 materials as well as the preparation and filing of a Substitution of Attorneys. Due to the  
14 unavailability of Counsel and the parties over the course of the holidays, the Substitution of  
15 Attorneys is being filed concurrently with this Stipulation. Newly substituted defense  
16 counsel, Terrence J. Cassidy, has received all of the file materials from Mr. Farrar’s office,  
17 which consist of in excess of 1000 pages, and has heretofore commenced review of those  
18 materials. To date, no depositions have been completed in this case.

19           4.       During the process of Mr. Cassidy being substituted into this case, Counsel for  
20 Plaintiffs noticed numerous Depositions and served a Request for Production of Documents.  
21 Defense Counsel will need sufficient time to familiarize himself with this case a to provide  
22 responses to the Request for Production of Documents, as well as to reschedule the  
23 Depositions of the various parties and witnesses to mutually agreed upon dates and times.

24           5.       Based on newly substituted defense Counsel’s initial review of the file  
25 materials, defense counsel has determined that the following additional discovery and  
26 investigation will be necessary in order to properly defend this case: Written discovery to  
27 Plaintiffs including Interrogatories and Request for Production of Documents; depositions  
28 of Plaintiffs James and Judy Wells, depositions of a number of Bystander Witnesses;

1 depositions of emergency response personnel and the Pathologist who conducted the autopsy;  
2 retention of various Expert Consultants/Witnesses, and assuming they are disclosed to testify,  
3 the preparation of expert reports.

4 6. Presently, non-expert discovery is scheduled to be completed on March 31,  
5 2010, Expert Disclosures with reports are due to be served February 28, 2010, Expert  
6 Discovery cut off is April 30, 2010, Last day to File Dispositive Motions is May 31, 2010  
7 with hearing date of July 12, 2010, Final Pre Trial Conference is August 16, 2010, the Trial  
8 is presently scheduled to commence on September 14, 2010.

9 7. Based on the need for additional time to conduct Discovery and retain/disclose  
10 Expert Witnesses, Counsel for Defendants contacted Counsel for Plaintiffs, Peter  
11 Williamson, and requested that Plaintiffs stipulate to extend the deadlines and trial date in  
12 this case approximately four months. Newly substituted Counsel for Defendants believes  
13 in good faith that the remaining Discovery and Expert Witness work up can be completed  
14 with that additional amount of time so as to not unduly delay further proceedings in this case.  
15 There has been one previous modification to the Pre-Trial Scheduling Order based on a  
16 newly substituted Counsel for Plaintiffs which was granted on September 14, 2009.

17 8. Therefore, the parties respectfully submit that good cause exists and request  
18 modification of the Pre-Trial Scheduling Order as follows:

19	Last Day to Complete Non-Expert Discovery	July 2, 2010
20	Last Day to Serve Expert Disclosures	July 16, 2010
21	Last Day to Serve Rebuttal Expert Disclosures	August 13, 2010
22	Last Day to Complete Expert Discovery	September 17, 2010
23	Last Day to File Dispositive Motions	October 15, 2010
24	Last Day for Hearing Dispositive Motions	November 15, 2010
25	Final Pre-Trial Conference	December 20, 2010
26	Trial	January 25, 2011

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1 IT IS FURTHER AGREED that all other provisions of the Pre-Trial Scheduling Order  
2 of November 20, 2008 remain in effect. This Stipulation may be signed in counterparts and  
3 that any facsimile or electronic signature shall be as valid as an original signature.

4 IT IS SO STIPULATED.

5 DATED: January 11, 2010

WILLIAMSON & KRAUSS

6  
7 By /S/ Peter M. Williamson

8 Peter M. Williamson  
9 Attorney for Plaintiffs  
10 JAMES ALBERT WELLS and  
JUDY WELLS

11 DATED : January 11, 2010

PORTER SCOTT  
A PROFESSIONAL CORPORATION

12  
13 By /S/ Terence J. Cassidy

14 Terence J. Cassidy  
15 Attorneys for Defendants  
16 COUNTY OF STANISLAUS, DEPUTY  
FRANK ALVES, DEPUTY J. WALSH,  
17 SHERIFF DEPUTY JOSHUA  
HOUTCHENS, PUBLIC WORKS  
EMPLOYEE STEVE GREEN,  
18 MATTHEW ERIKSON PUBLIC  
WORKS DIRECTOR FOR THE CITY  
19 OF WATERFORD, SHERIFF ADAM  
CHRISTIANSON

20  
21 **ORDER**

22 Having reviewed the above stipulation and good cause appearing therefore, IT IS  
23 HEREBY ORDERED that the Pre-Trial Scheduling Order be modified with the new  
24 schedule as set forth above.

25 NO FURTHER CONTINUANCES

26  
27 IT IS SO ORDERED.

28 Dated: January 12, 2010

/s/ Oliver W. Wanger

UNITED STATES DISTRICT JUDGE

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