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10 Attorney for Defendant
 FRITO-LAY, INC. (erroneously sued as
 11 "FRITO LAY")

12 UNITED STATES DISTRICT COURT
 13 EASTERN DISTRICT OF CALIFORNIA, FRESNO DIVISION

15 DANNY RODRIGUEZ,
 16 Plaintiff,
 17 v.
 18 FRITO LAY and DOES 1 TO 25,
 inclusive,
 19 Defendants.

CASE NO. 1:09-cv-01380-AWI-GSA
**STIPULATION ORDER TO ALTER THE
 SCHEDULING ORDER**
 TRIAL: October 19, 2010
 TIME: 8:30 a.m.
 CTRM: #2 (8th Floor)
 GARY S. AUSTIN
 U.S. MAGISTRATE JUDGE

23 Pursuant to Federal Rule of Civil Procedure ("FRCP") 26(f) and the Court's
 24 Scheduling Order, the parties, Plaintiff Danny Rodriguez ("Plaintiff") and Defendant Frito-Lay,
 25 Inc. ("Frito-Lay") do hereby submit this Joint Stipulation and [Proposed] Order To Alter
 26 Scheduling entered on October 14, 2009.

28 Currently, the non-expert discovery deadline is February 26, 2010. Because this is

1 a case that involves multiple health care providers who have either treated or evaluated Plaintiff
2 for the condition at issue in this case, the parties anticipate that the depositions of five to seven
3 health care providers may be necessary. The parties wish to extend the non-expert discovery
4 deadline solely for the purpose of deposing Plaintiff's treating or evaluating health care providers,
5 Roger Babb, Mike Castaneda, and Dale Clay. The discovery extension would not apply to any
6 other type of non-expert discovery, including other depositions or written discovery. The purpose
7 for this request is two-fold. Plaintiff's counsel is unavailable to attend any depositions of any of
8 the treating or evaluating health care providers or to take the depositions of three witnesses, Roger
9 Babb, Mike Castaneda, and Dale Clay, during the month of February, 2010. Plaintiff's counsel is
10 a solo practitioner and is currently opposing two separate motions for summary judgment. He is
11 scheduled to be in deposition or otherwise working on these matters for the entire month of
12 February. As such, he is unable to schedule or attend the deposition of any treating or evaluating
13 health care provider during the month of February. In addition, most health care providers charge
14 an hourly rate ranging from \$350.00 to \$600.00 per hour to appear for deposition. The parties
15 would like additional time to explore potential resolution of this case prior to incurring these
16 significant costs. As such, the parties respectfully request that the deadline for completing the
17 depositions of Plaintiff's treating and evaluating health care providers and of Roger Babb, Mike
18 Castaneda, and Dale Clay be continued until April 27, 2010, which is approximately 25 weeks
19 prior to the ordered trial date of October 19, 2010.

20 Similarly, the parties wish to continue the deadlines relating to expert discovery for the
21 same reasons. Currently, expert disclosures are due on March 5, 2010, supplemental expert
22 disclosures are due on March 26, 2010, and expert discovery closes on April 30, 2010. The parties
23 respectfully request these deadlines be continued until March 26, 2010, April 16, 2010, and May
24 21, 2010, respectively, which are approximately more than 4 weeks prior to the ordered
25 Dispositive Motion Deadline of June 18, 2010. The parties further agree that the disclosure of
26 expert testimony under FRCP 26(a)(2)(c)(i) should be 30 days prior to trial (*i.e.*, approximately
27 September 17, 2010), and rebuttal evidence under FRCP 26(a)(2)(c)(ii) should be 15 days prior to
28 trial (*i.e.*, October 4, 2010). The parties further request that the date by which Defendant must

1 move to compel an independent mental examination of Plaintiff be continued until May 15, 2010.

2 Respectfully submitted, and

3 IT IS SO STIPULATED.

4 Dated: February 22, 2010

McCLELLAND LAW OFFICES

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By /s/ W. Rod McClelland, Jr.
W. ROD McCLELLAND, JR.

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Attorney for Plaintiff DANNY RODRIGUEZ

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10 Dated: February 22, 2010

VILLARREAL HUTNER PC

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By /s/ Tracy S. Todd
TRACY S. TODD

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Attorney for Defendant, FRITO-LAY, INC.

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ORDER

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Upon the Court's review, the stipulation is adopted IN PART. The parties have until April 27, 2010, to conclude the depositions of Plaintiff's treating and evaluating health care providers and of witnesses Roger Babb, Dale Clay, and Mike Castaneda. For all other non-expert discovery matters, the deadline of February 26, 2010, remains unchanged. Further, expert disclosures are now due on March 26, 2010, supplemental expert disclosures are now due on April 16, 2010, and expert discovery closes on and May 21, 2010. Defendant must move to compel an independent mental examination of Plaintiff by May 15, 2010.

IT IS SO ORDERED.

DATED: February 24, 2010

 /s/ Gary S. Austin
THE HONORABLE GARY S. AUSTIN
UNITED STATES MAGISTRATE JUDGE