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10 IN THE UNITED STATES DISTRICT COURT  
11 FOR THE EASTERN DISTRICT OF CALIFORNIA  
12 FRESNO DIVISION

13 **JOHN R. MARTINEZ,**

14 Plaintiff,

15 v.

16 **JAMES TILTON, et al.,**

17 Defendants.

No. 1:10-cv-01501 SKO

**STIPULATION AND ORDER TO  
EXTEND THE DISCOVERY DEADLINE  
FOR THE LIMITED PURPOSE OF  
COMPLETING DEPOSITION OF  
DEFENDANT D. ADAMS**

18  
19 Under Federal Rules of Civil Procedure 6(b)(1)(A), 16(b)(4), and 26(d) and Local Rules  
20 143 and 144, the parties, through their counsel of record, agree to extend the discovery deadline  
21 for fifteen days, up to and including January 10, 2014, for the limited purpose of completing the  
22 deposition of Defendant D. Adams.

23 A scheduling order may be modified only upon a showing of good cause and by leave of  
24 Court. Fed. R. Civ. P. 6(b)(1)(A), 16(b)(4); *see, e.g., Johnson v. Mammoth Recreations, Inc.*, 975  
25 F.2d 604, 609 (describing the factors a court should consider in ruling on such a motion). In  
26 considering whether a party moving for a schedule modification has good cause, the Court  
27 primarily focuses on the diligence of the party seeking the modification. *Johnson*, 975 F.2d at  
28 609 (citing Fed. R. Civ. P. 16 advisory committee's notes of 1983 amendment). "The district

1 court may modify the pretrial schedule ‘if it cannot reasonably be met despite the diligence of the  
2 party seeking the amendment.’” *Id.* (quoting Fed. R. Civ. P. 16 advisory committee notes of 1983  
3 amendment).

4 Good cause exists to grant this extension because the parties require more time to take the  
5 deposition of the parties. Discovery is scheduled closed on December 26, 2013, based on the  
6 parties stipulation and subsequent order issued on November 26, 2013. (ECF No. 48.) The  
7 parties have previously requested one other modification of the courts Court’s Scheduling Order  
8 to conduct party deposition, but have not been able to schedule Defendant D. Adams during that  
9 period because he now lives in Florida.

10 The parties have stipulated that Defendant Adams will be deposed telephonically due to his  
11 limited availability. However, the earliest the parties and Defendant Adams can accommodate  
12 this deposition is January 10, 2014. Thus, the parties request a sixteen-day extension of the  
13 discovery deadline to complete Defendant D. Adams’ deposition.

14 Dated: December 23, 2013

Respectfully submitted,

15  
16 KAMALA D. HARRIS  
Attorney General of California  
17 CHRISTOPHER J. BECKER  
Supervising Deputy Attorney General

18 */s/ Diana Esquivel*

19 DIANA ESQUIVEL  
Deputy Attorney General  
20 *Attorneys for Defendants*

21 Dated: December 23, 2013

WILLIAM L. SCHMIDT  
ATTORNEY AT LAW, P.C.

22  
23 */s/ William L. Schmidt*

24 WILLIAM L. SCHMIDT  
*Attorneys for Plaintiff*

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**ORDER**

Based on the parties' stipulation and good cause appearing, the discovery deadline is extended to January 10, 2014, for the limited purpose of completing the Defendant D. Adams' deposition.

IT IS SO ORDERED.

Dated: January 2, 2014

/s/ Sheila K. Oberto  
UNITED STATES MAGISTRATE JUDGE