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16 **UNITED STATES DISTRICT COURT**
 17 **EASTERN DISTRICT OF CALIFORNIA**

19 KEVIN DARNELL BRYANT,
 20 Plaintiff,
 21 vs.
 22 GALLAGHER, et al.
 23 Defendants.

Case No.: 1:11-CV-00446 BAM (PC)

**STIPULATION RE: TRIAL TESTIMONY OF
 YOUNG N. PAIK, M.D.; ORDER**

Action File: July 17, 2011
 Trial Date: May 15, 2017

26 The parties to the above referenced above, by and through their respective counsel of record and
 27 subject to the Court's approval, hereby stipulate as follows:

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1 WHEREAS plaintiff KEVIN DARNELL BRYANT seeks to elicit percipient witness testimony
2 from his treating physician, Young N. Paik, M.D. on Tuesday, May 17, 2017;

3 WHEREAS counsel for Dr. Paik has contacted both counsel for plaintiff and counsel for
4 defendants to see if they are amenable to the instant stipulation;

5 WHEREAS Dr. Paik has advised through his counsel that Dr. Paik has a heavy patient load (35-
6 40 patients) who are scheduled to be seen in his Pacific Orthopedic Medical Group office in Bakersfield,
7 California on May 17, 2017;

8 WHEREAS Dr. Paik has advised through his counsel that Dr. Paik has pre-existing vision related
9 health issues that impact his ability to travel to Fresno to offer live testimony;

10 WHEREAS Dr. Paik has advised through his counsel that Dr. Paik has pre-existing vision related
11 health issues preventing him from driving a vehicle outside of the local area of Bakersfield and during
12 any nighttime hours;

13 WHEREAS Dr. Paik, through his counsel, has requested that he be allowed to testify in the
14 instant case by way of video conference from a location in Bakersfield;

15 WHEREAS the parties are not stipulating herein that the subpoena previously provided to Dr.
16 Paik is unenforceable, but are instead agreeing to the usage of video conference for the testimony of Dr.
17 Paik as a professional accommodation to Dr. Paik given his health issues;

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2 The parties HEREBY AGREE AND STIPULATE, subject to the Court's approval, to allow Dr.
3 Young Paik to offer trial testimony by way of video conference from a location in Bakersfield,
4 California. Dr. Paik's counsel of record, LeBeau-Thelen, LLP, will assist in locating a suitable location
5 in Bakersfield for Dr. Paik to offer his video conference testimony, and said location will coordinate
6 with the Court prior to Dr. Paik's testimony to ensure that the technical capabilities for offering
7 testimony by way of video conference will be viable.

8 **SO STIPULATED.**

9 Dated: May 11, 2017

PICCUTA LAW GROUP, LLP

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11 By: /s/ C.T. Piccuta
12 CHARLES T. PICCUTA, ESQ.
13 Attorneys for Plaintiff KEVIN DARNELL
BRYANT

14 Dated: May 11, 2017

15 By: /s/ Diana Esquivel
16 DIANA ESQUIVEL, ESQ.
17 Attorneys for Defendants GALLAGHER and
ROMERO

18 **ORDER**

19 The court Grants the request, in principle, with the following exceptions. The court does not
20 have the technological ability to accommodate last minute requests for video testimony. Timing,
21 compatibility, court proceedings, staff unavailability, inability to test, and other issues may determine
22 that video conferencing is not viable. As far as the witness' inability to drive himself, the court notes
23 other options for transportation, including his counsel's cooperation, are available. Further, the court
24 has not been informed of, nor has made arrangements for, where, when and how the video is to be
25 accomplished.

26 IT IS SO ORDERED.

27 Dated: May 12, 2017

28 /s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE