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

14 **YVONNE ARCURE, KEVIN COOK, &**  
**JOSEPH FESSENDEN,**  
15  
16 Plaintiffs,

17 v.

18 **CALIFORNIA DEPARTMENT OF**  
**DEVELOPMENTAL SERVICES,**  
19 **DEBORAH MEEKER, JEFFREY**  
**BRADLEY, DOUGLAS LOEHNER,**  
20 **DAVID CORRAL, & MICHAEL FLORES,**

21 Defendants.

1:13-cv-00541-LJO-MJS

**STIPULATION TO AMEND  
SCHEDULING ORDER**

22  
23 **BACKGROUND**

24 This action was filed on April 16, 2013. Doc. 1. It began with five plaintiffs against  
25 seven defendants. *Id.* Two plaintiffs, Lisa Huff and Kathren Woodside, settled their claims on  
26 September 23, 2013. Doc. 44. Defendant Department of Developmental Services (“DDS”)  
27 settled the claims of Plaintiffs Yvonne Arcure and Joseph Fessenden on April 8, 2015. With the  
28 exception of Jeffery Bradley, all of the individual defendants have been dismissed.

1 Presently there is one remaining plaintiff, Kevin Cook (“Cook”) who is represented by  
2 Lawrence J. King, and two remaining defendants, DDS, represented by the California Attorney  
3 General, and Jeffery Bradley (“Bradley”) who is proceeding pro se. Cook alleges three causes of  
4 action: two for retaliation under the FEHA and Title VII against DDS; and one under the  
5 California Whistleblower Protection Act against DDS and Bradley.

6 The parties entered into a stipulation to amend the scheduling order which was approved  
7 by the Court on July 13, 2015. *See* Doc. 193. The parties request further amendments to the  
8 scheduling order as set forth below.

### 9 **FACT DISCOVERY**

10 Fact discovery is closed, with the exception of Plaintiff’s deposition of Jeffery Bradley.  
11 Mr. Bradley had previously stipulated to appearing for Plaintiff’s deposition on October 6 and 7,  
12 2015. But on October 5, 2015, Mr. Bradley informed Plaintiff’s counsel that he was not available  
13 for deposition and agreed to reschedule his deposition for October 19 and 20, 2015.

### 14 **SUMMARY JUDGMENT DUE DATE**

15 Motions for summary judgment are due on November 1, 2015. *See* Doc. 193. However,  
16 given the re-scheduling of Mr. Bradley’s deposition, the parties will need additional time to file  
17 their motions for summary judgment to allow sufficient time for delivery of the deposition  
18 transcript. Given the parties’ counsels’ schedules, they would like to re-set the briefing schedule  
19 for the motion for summary judgment as set forth below.

### 20 **EXPERT DISCOVERY**

21 Expert disclosures were due on October 2, 2015. *See* Doc. 193. However, DDS’s counsel  
22 and Plaintiff’s counsel have agreed to continue the time for disclosures for purposes of efficiency  
23 and cost savings. DDS will be seeking summary judgment on Plaintiff’s claim that he was denied  
24 promotion to the Chief of the Office of Protective Service in retaliation for engaging in protected  
25 activity under Title VII, the Fair Employment and Housing Act, and the California Whistleblower  
26 Protection Act.

27 Plaintiff intends to designate one expert, Charles Mahla, on the issue of economic  
28 damages. If the Court grants DDS’s motion for summary judgment on Plaintiff’s failure to

1 promote claim, Plaintiff may not need to retain his expert or the scope of the expert's services  
2 will be adjusted based on the Court's ruling. In order to avoid potential unnecessary litigation  
3 costs, the parties find that it is in their best interests to continue the deadline for expert disclosures  
4 until after the Court rules on the parties' motions for summary judgment.

5 **TRIAL DATES**

6 A status conference is currently set for January 7, 2016, at 10:00 a.m. to select trial dates.

7 *See* Doc. 193.

8 **BASED ON THE FOREGOING**, the parties stipulate as follows:

9 1. Plaintiff Cook shall take two days of Bradley's deposition on October 19 and 20,  
10 2015.

11 3. Motions for summary judgment will be due on or before January 8, 2016.  
12 Oppositions will be due on or before February 8, 2016, and replies will be due on or before  
13 February 22, 2016.

14 3. The parties will disclose experts within 21 days of the Court's ruling on motions  
15 for summary judgment. Supplemental disclosures will be due 45 days after initial disclosures.  
16 Expert discovery will close 75 days after the initial expert disclosures.

17 4. The parties will appear at a telephonic status conference currently set for January  
18 7, 2016, at 10:00 a.m. to select a trial date.

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1 **SO STIPULATED.**

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3 Dated: October 8, 2015

Respectfully submitted,

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KAMALA D. HARRIS  
Attorney General of California

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JUDITH A. RECCHIO  
Supervising Deputy Attorney General

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*s/ Matthew T. Besmer*

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MATTHEW T. BESMER  
Deputy Attorney General  
*Attorneys for Defendants*

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11 Dated: October 8, 2015

LAW OFFICES OF LAWRENCE J. KING

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*s/ Lawrence J. King*

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Lawrence J. King  
Attorney for Plaintiff

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18 Dated: October 8, 2015

*s/ Jeffrey Bradley*

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Jeffrey Bradley, Pro Per  
Defendant

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1 **ORDER**

2 Good cause appearing on the parties' Stipulation to Amend Scheduling Order, it is hereby  
3 ORDERED that:

4 1. Plaintiff Cook shall take two days of Bradley's deposition on October 19 and 20,  
5 2015.

6 3. Motions for summary judgment are due on or before January 8, 2016. Oppositions  
7 are due on or before February 8, 2016. Replies are due on or before February 22, 2016.

8 3. The parties shall disclose experts within 21 days of the Court's ruling on motions  
9 for summary judgment. Supplemental disclosures are due 45 days after initial disclosures.  
10 Expert discovery closes 75 days after the initial expert disclosures.

11 4. The parties shall appear at a telephonic status conference currently set for January  
12 7, 2016, at 10:00 a.m. to select a trial date.

13 5. The parties shall ensure all future filings in this case reflect the correct case identifier:  
14 CASE #: 1:13-cv-00541-MJS.

15  
16 IT IS SO ORDERED.

17 Dated: October 8, 2015

18 /s/ Michael J. Seng  
19 UNITED STATES MAGISTRATE JUDGE