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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ROBERT FELIX and JACK PHELPS,
individuals,

Plaintiffs,

v.

THE STATE OF CALIFORNIA,
DEPARTMENT OF DEVELOPMENTAL
SERVICES, OFFICE OF PROTECTIVE
SERVICES,

Defendant.

1:13-cv-00561- SKO

**AMENDED STIPULATION FOR ORDER
TO CONTINUE TRIAL AND PRE-
TRIAL DATES; ORDER THEREON**

Judge: The Honorable Sheila
K. Oberto
Complaint Filed: April 17, 2013

1 IT IS HEREBY STIPULATED, by and among ROBERT FELIX (“FELIX”) and JACK
2 PHELPS (“PHELPS”) (“Plaintiffs”) and STATE OF CALIFORNIA, DEPARTMENT OF
3 DEVELOPMENTAL SERVICES, INC. (“Defendant” or “Defendant”) (collectively, the
4 “Parties”), through their respective undersigned counsel, as follows:

5 WHEREAS, this Court entered the current Scheduling Order in this matter on
6 September 16, 2013 (Court Docket, Document No. 24);

7 WHEREAS, pursuant to consent given by all parties, on August 11, 2014, the Court entered
8 an order re-assigning this matter for all purposes to the Honorable District Court Magistrate Judge
9 Sheila Oberto (Court Docket, Document No. 34);

10 WHEREAS, this is a multi-Plaintiff case where Plaintiffs allege harassment, discrimination,
11 retaliation and disparate treatment in the terms and conditions of employment occurring over the
12 course of approximately 8 years;

13 WHEREAS, the United States Equal Employment Opportunities Commission (EEOC)
14 received Plaintiffs’ Charges of Discrimination in February of 2008 and conducted an extensive
15 investigation that took the EEOC approximately 4 years to complete;

16 WHEREAS, Plaintiffs were not issued Right to Sue letters on their February 2008 Charges
17 of Discrimination until 2013;

18 WHEREAS, the Parties’ Rule 26 disclosures identify more than 30 witnesses located all
19 across the State of California and out-of-state;

20 WHEREAS, the Parties have exchanged well over 40,000 pages of documents related to
21 this case;

22 WHEREAS, Plaintiffs propounded written discovery on Defendants in or around
23 January 2014;

24 WHEREAS, Defendant provided initial responses on or about April 22, 2014, after
25 Plaintiffs granted requested response deadline extensions;

26 WHEREAS, Plaintiffs and Defendant have met and conferred in good faith regarding
27 disputed issues relating to Defendant’s responses to Plaintiffs first sets of interrogatories and
28 Defendant’s Rule 26 disclosures;

1 WHEREAS, during the course of the Parties' meet and confer efforts, Plaintiffs agreed to
2 limit or to modify certain discovery requests, and Defendant agreed to provide various
3 supplemental interrogatory responses and supplemental Rule 26 disclosures responsive to the
4 modified or limited discovery requests;

5 WHEREAS, Defendant has provided additional documents related to the Rule 26
6 disclosures and document requests and some but not all of the agreed-upon supplemental
7 interrogatory responses;

8 WHEREAS, Defendant anticipates that based on its discovery responses, a future on-site
9 visit by Plaintiffs may be required in order to review documents potentially responsive to
10 propounded discovery;

11 WHEREAS, during the meet and confer process, the Parties have agreed that additional
12 time will be necessary for the Parties to conduct adequate discovery so that they may evaluate and
13 prepare the case for settlement and/or trial;

14 WHEREAS, neither Party initially scheduled depositions due to scheduling difficulties and
15 the need to complete certain written discovery and to review many thousands of pages of
16 documents prior to taking depositions;

17 WHEREAS, Defendant is currently taking Plaintiff Jack Phelps' deposition and has
18 scheduled Plaintiff Robert Felix' deposition for August 14 and 15;

19 WHEREAS, given the number of alleged discriminatory and retaliatory events over the
20 course of 8 years, Defendant is unsure if it can complete Plaintiffs' depositions within the agreed
21 upon 12 hours over two days but is trying to the best of its ability to do so;

22 WHEREAS, the following depositions (some of which conflict as to time and/or location)
23 have been noticed by the parties and scheduled as follows:

<u>DEPONENT</u>	<u>DEPOSITION DAY AND TIME</u>
JACK PHELPS	August 7, 2014 at 9:00 a.m.
JACK PHELPS	August 8, 2014 at 9:00 a.m.
ROBERT FELIX	August 14, 2014 at 9:00 a.m.

<u>DEPONENT</u>	<u>DEPOSITION DAY AND TIME</u>
ROBERT FELIX	August 15, 2014 at 9:00 a.m.
SCOTT GARDNER	August 18, 2014 at 10:00 a.m.
JEFF BRADLEY	August 18, 2014 at 1:00 p.m.
CARLOS MARTINEZ	August 18, 2014 at 3:00 p.m.
KEVIN COOK	August 19, 2014 at 9:00 a.m.
LISA HUFF	August 19, 2014 at 1:00 p.m.
KATHY WOODSIDE	August 19, 2014 at 3:00 p.m.
JAMES RODRIGUEZ	August 20, 2014 at 9:00 a.m.
RAMONA PHELPS	August 20, 2014 at 10:00 a.m.
JOANN FELIX	August 20, 2014 at 1:00 p.m.
DAN DILLARD	August 20, 2014 at 1:00 p.m.
JOE BOMGARDNER	August 21, 2014 at 9:00 a.m.
BOB LEWIS (Sonoma, California)	August 21, 2014 at 1:00 p.m.
GENE ALVAREZ	August 21, 2014 at 3:00 p.m.

WHEREAS, Defendant has been notified that at least three of those individuals are currently represented by outside counsel and believes that two other witnesses may also be represented by outside counsel;

WHEREAS, Defendant has been informed by the outside counsel for three of the represented witnesses that he will be unable to attend the currently scheduled depositions and will not be able to attend any depositions prior to the current discovery cut off date;

WHEREAS, Defendant has been informed by outside counsel for three of the witnesses he will not be available to attend depositions until the end of September due to his unavailability and a pre-scheduled vacation out of the country;

1 WHEREAS, Defendant has also been notified that one of the witnesses is no longer located
2 at the last known address on file for the witness and attempts to serve the individual are
3 continuing;

4 WHEREAS, the Parties believe the depositions scheduled by each side will need to be
5 rescheduled due to calendar conflicts and the impossibility of completing most of the depositions
6 within the two to three hours for which they have been scheduled;

7 WHEREAS, it would be inconvenient for the deponents and for counsel to recess their
8 depositions after two to three hours and to reschedule the completion of their depositions for
9 another date that was mutually agreeable to the witnesses and counsel.

10 WHEREAS, the Parties have tentatively agreed to engage in private mediation in or about
11 December, 2014 to February, 2015, following the completion of key witness depositions;

12 WHEREAS, the Parties will need to schedule dozens of additional non-expert depositions
13 thereafter if the Parties are unable to resolve the case;

14 WHEREAS, the Parties will also need to schedule numerous expert depositions thereafter if
15 the Parties are unable to resolve the case;

16 WHEREAS, the Parties agree the complexity of this case, along with the difficulty in
17 scheduling depositions and the other factors described more fully herein constitute good cause
18 pursuant to Federal Rules of Civil Procedure Rule 16(b)(4) for the Court to extend the non-expert
19 discovery deadline in order to complete adequate discovery, and to extend the trial date and/or
20 some or all of the remaining pre-trial dates and deadlines;

21 IT IS HEREBY STIPULATED AND AGREED by and among the Parties that all dates and
22 deadlines in the current Scheduling Order shall be extended approximately six months or as close
23 thereto as the Court's calendar will permit. Should the Court agree to extend all dates, the Parties
24 propose that the current deadlines and dates shall be modified as follows (or as close thereto as
25 the Court's calendar will permit):

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<u>EVENT/DEADLINE</u>	<u>CURRENT DATE</u>	<u>PROPOSED DATES</u>
Non-Expert Discovery	08/21/2014	02/21/2015
Expert Disclosure	09/25/2014	03/25/2015
Settlement Conference	09/25/2014	03/25/2015
Rebuttal Expert Disclosure	10/09/2014	04/09/2015
Expert Discovery Deadline	11/18/2014	05/18/2015
Non-Disp. Motion Hearing	12/31/2014	06/17/2015
Dispositive Motion Hearing	12/31/2014	06/17/2015
Pre-Trial Conference	05/07/2015	11/07/2015
Trial	06/23/2015	1/25/2016

IT IS SO STIPULATED.

Dated: August 11, 2014

LAW OFFICE OF DEAN B. GORDON

By: /s/ Dean B. Gordon
 Dean B. Gordon
 Attorneys for Plaintiffs Robert Felix
 and Jack Phelps

Dated: August 11, 2014

OFFICE OF THE ATTORNEY GENERAL

By: /s/ Mary Horst
 Mary Horst
 Deputy Attorney General
 Attorneys for Defendant Department
 of Developmental Services

1 **ORDER**

2 The parties stipulated to a modification of the schedule. Accordingly, IT IS HEREBY
3 ORDERED that the current Scheduling Order in this case shall be modified and all dates and
4 deadlines shall be continued approximately six months. The new dates and deadlines shall be as
5 follows:

<u>EVENT/DEADLINE</u>	<u>CURRENT DATE</u>	<u>NEW DATE</u>
Non-Expert Discovery	08/21/2014	02/21/2015
Expert Disclosure	09/25/2014	03/25/2015
Settlement Conference	09/25/2014	03/25/2015
Rebuttal Expert Disclosure	10/09/2014	04/09/2015
Expert Discovery Deadline	11/18/2014	05/18/2015
Non-Disp. Motion Filing	12/31/2014	06/17/2015
Non-Disp. Motion Hearing	02/11/2015	08/12/2015
Dispositive Motion Filing	12/31/2014	06/17/2015
Dispositive Motion Hearing	03/18/2015	09/16/2015
Pre-Trial Conference	05/07/2015	11/04/2015
Trial	06/23/2015	1/26/2016

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19 The March 25, 2015, settlement conference will be held before U.S. Magistrate Judge
20 Stanley A. Boone in Courtroom 9 at 1:00 p.m. The Pretrial Conference is continued to November
21 4, 2015, at 2:00 p.m. in Courtroom 7. The trial is continued to January 26, 2016, at 8:30 a.m. in
22 Courtroom 7.

23
24 IT IS SO ORDERED.

25 Dated: August 18, 2014

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE