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

10 **MAURICE C. MOCK,**

11 Plaintiff,

12 v.

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14 **CALIFORNIA DEPARTMENT OF**
15 **CORRECTIONS AND**
16 **REHABILITATION; PLEASANT**
17 **VALLEY STATE PRISON; JEFFREY A**
BEARD, in official capacity; JOHN KEITH,
in his individual and official capacities; and
DOES 1 through 50, inclusive,

18 Defendants.
19

1:15-cv-01104-MJS

**STIPULATION TO AMEND
SCHEDULING ORDER; AND FOR A
STATUS CONFERENCE**

Date: May 25, 2017
Time: 10:30 a.m.
Courtroom: 7
Judge: The Honorable Michael J. Seng

Trial: October 24, 2017
Action Filed: June 15, 2015

20 Recent developments in this case provide good cause to amend the scheduling order. The
21 California Attorney General's Office ("AGO") had been representing defendants California
22 Department of Corrections and Rehabilitation ("CDCR") and John Keith. On March 2, 2017,
23 defendant Keith filed his own discrimination complaint against CDCR in the Fresno County
24 Superior Court. Thus, a conflict developed between the AGO's continued representation of both
25 CDCR and Mr. Keith. John Lavra of Longyear O'Dea & Lavra, LLP has been retained to
26 represent Mr. Keith.
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1 **DISPOSITIVE MOTIONS**

2 The dispositive motion deadline is July 3, 2017. ECF No. 36. However, given Mr.
3 Keith's new counsel's schedule and his need to become familiar with the facts and legal
4 arguments in this case, the dispositive motion deadline will need to be continued. Additionally,
5 in February 2017, CDCR's counsel, Mr. Besmer, received a new military assignment and
6 subsequently learned that he will have military duty out of country from June 20, 2017 through
7 July 10, 2017, and from September 8, 2017, through September 23, 2017.

8 **EXPERT DISCLOSURES**

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10 The expert disclosure cut off was April 1, 2017. ECF No. 36. The parties, however, met
11 and conferred and agreed to continue the expert disclosures until after the settlement conference.
12 The parties agreed that doing so was in the interests of reducing litigation costs—should the case
13 settle at the settlement conference.

14 **SETTLEMENT CONFERENCE**

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16 The settlement conference was initially scheduled for December 15, 2016. ECF No. 36.
17 However, the parties met and conferred and agreed that additional discovery was needed and that
18 the case was not postured for settlement. The settlement conference was continued to April 11,
19 2017. ECF No. 39. Plaintiff intends to depose Charles Young before the settlement conference.
20 But given Mr. Young's availability, and given the conflict that developed with the AGO
21 representing both defendants, the parties continued Mr. Young's deposition and also agreed to
22 continue the settlement conference. ECF No. 48. The settlement conference is now set for June
23 15, 2017. ECF No. 50.

24 **MR. YOUNG'S DEPOSITION**

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26 Fact discovery closed on April 1, 2017. But counsel for CDCR and Plaintiff agreed to
27 continue Mr. Young's deposition given his schedule and analysis of conflict issues.
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1 **TRIAL DATES**

2 Mr. Keith's new counsel, Mr. Lavra, is not available for trial which is scheduled to begin
3 on October 24, 2017. Therefore, the parties agree that the trial should be continued. Plaintiff
4 objects to a trial date any later than February 2018, and believes a trial date in April 2018 is an
5 excessive delay. However, Defendant Keith's counsel is not available for trial until April 2018.
6 The parties agree to set a new trial date at a status conference.

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8 NOW THEREFORE, the parties stipulate as follows:

- 9 1. The dispositive motion deadline shall be continued to November 3, 2017.
- 10 2. Expert disclosures shall be continued to October 1, 2017, and supplemental
11 disclosures shall be continued to October 31, 2017.
- 12 3. Expert discovery shall close on November 30, 2017.
- 13 4. The parties shall meet and confer for acceptable dates for Mr. Young's deposition,
14 and Plaintiff shall issue a deposition subpoena and notice.
- 15 5. The parties agree to conduct a status conference with the Court to set a new trial
16 date. The parties agree to a status conference on May 25, 2017, at 10:30 a.m. or as soon
17 thereafter as the Court is available.

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SO STIPULATED.

Dated: May 18, 2017

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
DAVID J. NEILL
Supervising Deputy Attorney General

/s/ Matthew T. Besmer

MATTHEW T. BESMER
Deputy Attorney General
Attorneys for Defendant CDCR

Dated: May 18, 2017

KAHN, SOARES & CONWAY, LLP

/s/ Richard C. Conway

Richard C. Conway
Robert B. Zumwalt
Attorneys for Plaintiff

Dated: May 18, 2017

LONGYEAR, O'DEA & LAVRA, LLP

/s/ John A. Lavra

John A. Lavra
Attorneys for Defendant John Keith

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ORDER

Good cause appearing, it is hereby ORDERED that a telephonic status conference shall be conducted on May 25, 2017, at 10:30 a.m. to discuss the terms of the proposed stipulation, above, and appropriate dates for further proceedings in this case. The parties' counsel shall appear by dialing 888.204.5984 and entering access code 4446176# at 10:25 a.m. on May 25, 2017, and wait for the undersigned to join the call.

IT IS SO ORDERED.

Dated: May 18, 2017

/s/ Michael J. Seng
UNITED STATES MAGISTRATE JUDGE