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8 Attorneys for Claimant, WESTON ANTHONY SMITH

9 UNITED STATES DISTRICT COURT

10 EASTERN DISTRICT OF CALIFORNIA

11 WESTON ANTHONY SMITH,

12 Plaintiff,

13 vs.

14 COUNTY OF KERN, a public entity,
 15 DONNY YOUNGBLOOD, an individual

16 Defendants.

CASE NO: 15-CV-01749-MCE-JLT

**STIPULATION AND ORDER FOR 120
 DAY CONTINUANCE
 OF DATES SET IN SECOND AMENDED
 PRETRIAL SCHEDULING ORDER**

17 The following stipulation is entered into by and between Plaintiff, Westona Anthony Smith,
 18 through his attorney of record, Ralph B. Wegis, Law Office of Ralph B. Wegis and Defendants,
 19 County Of Kern and Donny Youngblood by and through their attorney of record, Marshall S. Fontes,
 20 Office of the County Counsel, that

21 **WHEREAS**, the complaint in this matter was filed on November 17, 2015;

22 **WHEREAS**, the court issued its pre-trial scheduling order on March 1, 2016, and

23 **WHEREAS**, the court issued its' Amended Pretrial Scheduling Order on September 12,
 24 2016; granting a 90 day continuance; and

25 **WHEREAS**, the court issued its' Second Amended Pretrial Scheduling Order on January 12,
 26 2017, granting a 120 day continuance, and setting the following dates:

27 All discovery, with the exception of expert discovery, shall be completed by **May 19, 2017**;

1 All counsel are to designate in writing, file with the Court, and serve upon all other parties the
2 name, address, and area of expertise of each expert that they propose to tender at trial not later
3 than **July 19, 2017**;

4 The last day to hear dispositive motions shall be **June 2, 2017**; and

5 **WHEREAS**, Barry Rosenberg, who is the principle attorney handling the pleadings and
6 papers on this matter, had been experiencing serious, heart related health issues leading to the
7 stipulation for a 120 continuance of dates reflected in the Second Amended Pretrial Scheduling
8 Order, but had been able to return to work, but in March, 2017 unexpectedly had a significant health
9 set back and is again in stage IV heart failure, requiring hospitalization and slowing the progress of
10 the case, but hopes to substantially increase his output on return to work; and

11 **WHEREAS**, the parties have been diligently proceeding with discovery, defendants noticing
12 plaintiff's deposition, and plaintiff's noticing an inspection of the Lerdo Facility where he was
13 injured, and setting depositions of Kern County Sheriff's Department deputies involved in
14 investigating his assault, including Deputies Gonzalez, Rivera, Dobbs McMasters, and Harbour, as
15 well as Sheriff Youngblood and persons most qualified from the Kern County Sheriff's Department
16 as to training, staffing and AB 109 assaults; and

17 **WHEREAS**, there remains significant discovery issues between the parties relating to
18 discovery, including timing and inspection procedures, particularly with respect to inspection of the
19 Lerdo facility where plaintiff was injured; and

20 **WHEREAS**, the existing deadlines are very problematic in light of these circumstances, and
21 prejudicial to plaintiff, and the interests of justice would be served by a 120 day extension of time
22 allowing both sides to properly complete discovery; and to allow plaintiffs to have the full
23 participation of Mr. Rosenberg in this process and in the litigation; and

24 **WHEREAS**, counsel for the defendants will be unavailable for the month of August, 2017
25 due to a month long trial;

26 **NOW THEREFOR, IT IS STIPULATED BY AND BETWEEN THE PARTIES,**
27 **THROUGH THEIR RESPECTIVE COUNSEL, AS FOLLOWS:**

28 **THAT GOOD CAUSE EXISTS TO CONTINUE ALL DATES:**

1 That the dates set in the court's Amended Pretrial Scheduling Order on September 12, 2016
2 **shall be continued 120 days** allowing both sides to properly complete discovery and to allow
3 plaintiffs to have the full participation of Mr. Rosenberg in this process and in the litigation.

4 All discovery, with the exception of expert discovery, shall be completed by **Monday,**
5 **September 18, 2017/[_____]**

6 All counsel are to designate in writing, file with the Court, and serve upon all other parties the
7 name, address, and area of expertise of each expert that they propose to tender at trial not later than
8 **Thursday, November 16, 2017/[_____]**

9 The last day to hear dispositive motions shall be **Monday, October 2,**
10 **2017/[_____]**

11 **SO STIPULATED**

12 DATED: April 18, 2017

LAW OFFICES OF RALPH B. WEGIS

13 _____
14 /S/
15 RALPH B. WEGIS
Attorneys for Plaintiff, WESTON ANTHONY
SMITH

16 DATED: April 18, 2017

OFFICE OF THE COUNTY COUNSEL

17 _____
18 /S/
19 MARSHALL S. FONTES,
Attorneys for Defendants, COUNTY OF KERN,
20 DONNY YOUNGBLOOD

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ORDER

Pursuant to the parties' stipulation and good cause having been shown, in is hereby ordered that:

The dates set in the court's January 12, 2017 Second Amended Pretrial Scheduling shall be continued 120 days to allow both sides to properly complete discovery; and to allow plaintiffs to have the full participation of Mr. Rosenberg in this process and in the litigation.


All discovery, with the exception of expert discovery, shall be completed by **Monday, September 18, 2017.**

All counsel are to designate in writing, file with the Court, and serve upon all other parties the name, address, and area of expertise of each expert that they propose to tender at trial not later than **Thursday, November 16, 2017.**

The last day to hear dispositive motions shall be **Monday, October 2, 2017.**

IT IS SO ORDERED.

Dated: April 18, 2017


MORRISON C. ENGLAND, JR
UNITED STATES DISTRICT JUDGE