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 18 **and DONNY YOUNGBLOOD**

19 **UNITED STATES DISTRICT COURT**
 20 **EASTERN DISTRICT OF CALIFORNIA**

WESTON ANTHONY SMITH,)	CASE NO: 1:15-cv-01749-MCE-JLT
)	
Plaintiff,)	STIPULATION AND ORDER FOR 120 DAY
)	CONTINUANCE
vs.)	OF DATES SET IN AMENDED PRETRIAL
)	SCHEDULING ORDER
COUNTY OF KERN, a public entity,)	
DONNY YOUNGBLOOD, an individual)	
)	
Defendants.)	
)	
)	

24
 25 Plaintiff, Weston Anthony Smith, and Defendants, County of Kern and Donny
 26 Youngblood, have met and conferred through their respective attorneys of record, and now make
 27 this joint stipulated request of the Court:
 28

1 **WHEREAS**, the complaint (*Docket No. 2*) in this matter was filed on November 17.
2 2015;

3 **WHEREAS**, the Court issued its pre-trial scheduling order (*Docket No. 24*) on March 1,
4 2016 and

5 **WHEREAS**, the Court issued its' Amended Pre-trial Order (*Docket No. 31*) on
6 September 12, 2016; granting a 90 day continuance, due to the pendency of a Rule 12(b)
7 motion,;

8 **WHEREAS**, the Court issued its' Second Amended Pre-trial Scheduling Order (*Docket*
9 *No. 38*) on January 12, 2017; granting a 120 day continuance, due to health concerns of
10 plaintiff's counsel, Mr. Rosenberg;

11 **WHEREAS**, the Court issued its' Order (*Docket No. 41*) granting a stipulated request
12 for an additional 120 day continuance of the dates set forth in the Second Amended Pre-trial
13 Scheduling Order on April 18, 2017, due to the continued health concerns of Mr. Rosenberg,
14 and set the following dates:

15 “All discovery, with the exception of expert discovery, shall be completed by **Monday**
16 **September 18, 2017**;

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

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

21 **WHEREAS**, Marshall S. Fontes, the attorney responsible for the representation of
22 defendants, County of Kern and Sheriff Donny Youngblood, has been diagnosed with a
23 herniated disc at the L4/5 level of the lumbar spine and has been experiencing debilitating pain
24 in the lower back and down both legs that has worsened over the last two months; Mr. Fontes is
25 currently receiving treatment through a series of epidural injections, but the condition has
26 significantly curtailed the amount time that Mr. Fontes has been capable of working each week
27 which has slowed the progress of this case, although it is hoped that the condition will improve
28 and that Mr. Fontes can increase his output at work in the near future;

1 WHEREAS, the parties have diligently been proceeding with discovery, having
2 performed an inspection of the Lerdo Facility, having exchanged a considerable amount of
3 written discovery and production of records relating to issues of both liability and damages,
4 having subpoenaed third party records regarding plaintiff's damages, having completed the
5 depositions of witnesses that were on duty at the time of incident and/or were involved in its
6 investigation, including Deputies A. Gonzalez, Rivero, Dobbs and Harbour, and having started
7 the deposition of County's person most qualified on AB109 assaults;

8 WHEREAS, there remains a significant amount of discovery to be completed, including
9 depositions of other persons most qualified on topics including the layout of the Lerdo barracks,
10 the intake process and classification of plaintiff at Lerdo upon his arrival, the County's training
11 on gangs and AB109, as well as the depositions of plaintiff, his family members and treating
12 medical providers and possibly a defense medical examination of plaintiff;

13 WHEREAS, the existing deadlines are very problematic in light of the above described
14 circumstances, and would be prejudicial to the parties, and the interests of justice would be
15 served by a 120 day extension of time allowing both sides to complete discovery and to allow
16 defendants to have the full participation of Mr. Fontes in this process.

17 NOW THEREFORE, IT IS STIPULATED BY AND BETWEEN THE PARTIES,
18 THROUGH THEIR RESPECTIVE COUNSEL AS FOLLOWS:

19 THAT GOOD CAUSE EXISTS TO CONTINUE ALL DATES:

20 That the dates set forth in the Court's order on April 18, 2017 shall be continued 120
21 days allowing both sides to properly complete discovery and to allow defendants to have the full
22 participation of Mr. Fontes in this process and in the litigation.

23 All discovery, with the exception of expert discovery, shall be completed by **Monday**
24 **January 15, 2018**;

25 All counsel are to designate in writing, file with the Court, and serve upon all other
26 parties the name, address, and area of expertise of each expert they propose to tender at trial not
27 later than **Thursday, March 15, 2018**;

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The last day to hear dispositive motions shall be **Thursday, April 5, 2018.**

SO STIPULATED

DATED: July 19, 2017

LAW OFFICES OF RALPH B. WEGIS

/s/ Ralph B. Wegis
RALPH B. WEGIS
Attorneys for Plaintiff,
WESTON ANTHONY SMITH

DATED: July 19, 2017

OFFICE OF THE COUNTY COUNSEL

/s/ Marshall S. Fontes
MARSHALL S. FONTES,
Attorneys for Defendants, COUNTY OF KERN,
and DONNY YOUNGBLOOD

ORDER

For GOOD CAUSE shown, and based upon the mutual Stipulation of all parties to this action, the Court hereby continues the following dates:


All discovery, with the exception of expert discovery, shall be completed by **Monday January 15, 2018;**

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 they propose to tender at trial not later than **Thursday, March 15, 2018;**

The last day to hear dispositive motions shall be **Thursday, April 5, 2018.**

IT IS SO ORDERED.

Dated: July 28, 2017


MORRISON C. ENGLAND, JR
UNITED STATES DISTRICT JUDGE