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12 UNITED STATES DISTRICT COURT
13 EASTERN DISTRICT OF CALIFORNIA
14 FRESNO DIVISION

16 **JOSEPH BECKER,**
17 Plaintiff,
18 v.
19 **WARDEN SHERMAN, ET AL.,**
20 Defendants.

Case No. 1:16-CV-00828-AWI-JDP

**JOINT STIPULATION AND ORDER
AMENDING DISCOVERY AND
SCHEDULING ORDER**

Judge: The Honorable Jeremy D. Peterson

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1 Plaintiff Joseph (“Cinnamon”) Becker (“Plaintiff”), and Defendants Wetenkamp,
2 Cartagena, N. Peterson, K. Loyd, M. Charkow-Ross, and J. Martinez (collectively, “Defendants”),
3 through their respective attorneys of record herein and without waiving any rights, claims, or
4 defenses they have in this action, enter into this stipulation, with reference to
5 the following circumstances:

6 WHEREAS, on June 15, 2016, Plaintiff Joseph “Cinnamon” Becker originally filed this
7 matter. *See* Prisoner Civil Rights Complaint, ECF No. 1.

8 WHEREAS, on June 21, 2018, Plaintiff and Defendants filed a joint scheduling statement
9 anticipating that fact discovery “should remain open until July 1, 2019.” *See* Joint Scheduling
10 Statement, ECF No. 87 at 2.

11 WHEREAS, on June 27, 2018, the Court issued a scheduling order setting various
12 additional pretrial and trial dates for this matter. *See* Discovery and Scheduling Order, ECF No.
13 88. In that scheduling order, the Court set the deadline for the completion of fact and expert
14 discovery as November 1, 2019. *See Id.* at 3.

15 WHEREAS, the parties proceeded with discovery in response to that scheduling order.

16 WHEREAS, on September 4, 2018, Plaintiff served Defendants with Plaintiff’s Second
17 Set of Requests for Production (“the RFPs”).¹

18 WHEREAS, on November 26, 2018, Plaintiff and Defendants reached an agreement
19 regarding Defendants’ production in response to the RFPs.

20 WHEREAS, on September 21, 2018, Plaintiff served the California Department of
21 Corrections (“CDCR”) with a third-party subpoena compelling the production of documents (“the
22 Subpoena”).²

23 WHEREAS, on November 16, 2018, Plaintiff and CDCR reached an agreement regarding
24 CDCR’s production in response to the Subpoena.

25 WHEREAS, on January 30, 2019, the parties filed a stipulated protective order governing,
26 among other things, Defendants’ production in response to the RFPs and CDCR’s production in

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28 ¹ The California Department of Justice represents Defendants in this matter.

² The California Department of Justice also represents CDCR.

1 response to the Subpoena. *See* Stipulated Protective Order, ECF No. 108.

2 WHEREAS, in March 2019, Robert “Trey” Perkins, counsel for CDCR, went on temporary
3 leave because of the sudden death of his father.

4 WHEREAS, on April 11, 2019, Defendants notified Plaintiff that Defendants’ counsel,
5 Michelle Angus, was leaving the Department of Justice and was being replaced with new counsel.

6 WHEREAS, as of the date of this filing, Defendants produced materials in response to the
7 RFPs on the following dates: January 17th, February 25th, March 11th, April 8th, and April 19th,
8 2019.

9 WHEREAS, CDCR produced certain materials in response to the Subpoena on the
10 following dates: January 17th, February 25th, March 11th, April 8th, and April 19th, 2019. These
11 materials did not include certain other documents, however, including (i) the Electronically Stored
12 Information of CDCR personnel in response to the Subpoena; and (ii) the Prison Rape Elimination
13 Act (“PREA”) training and audit materials from Corcoran prison, where Plaintiff was housed, in
14 response to Plaintiff’s requests for production.

15 WHEREAS, on July 23, 2019, Plaintiff and CDCR reached an agreement regarding
16 custodians and search terms for the Electronically Stored Information portion of the Subpoena.

17 WHEREAS, on August 6, 2019, the parties entered into a Joint Stipulation Regarding
18 CDCR’s Production of Electronically Stored Information and Modification of Discovery and
19 Scheduling Order, ECF No. 119, which required Defendants to complete its production of ESI in
20 response to the CDCR subpoena and production of all remaining responsive documents by
21 September 6, 2019.

22 WHEREAS, CDCR did not produce the Electronically Stored Information in response to
23 the CDCR Subpoena until September 9, 2019.

24 WHEREAS, CDCR produced the last of its remaining PREA training and audit materials
25 for Corcoran on September 19, 2019.

26 WHEREAS these productions were belated and larger in size than originally anticipated,
27 and thus additional time to review these productions and consider whether any additional
28 discovery requests are necessary is required.

1 WHEREAS, on October 14, 2019, Defendants authorized Plaintiff's submission of this
2 stipulation on their counsel's behalf.

3 THEREFORE, WITH GOOD CAUSE SHOWN, the parties request to extend the deadline
4 for written discovery by one month to December 1, 2019. The parties further request to extend
5 the deadline by which Plaintiff's expert reports must be served by two months, to February 1,
6 2020. These requested extensions are necessary to ensure that Plaintiff can review the entirety of
7 Defendants' and CDCR's productions, serve any additional discovery as needed, and that
8 Plaintiffs' experts have sufficient time to complete their reports after receiving all discovery
9 productions. The existing deadline for fact depositions of February 1, 2020 set out in the Joint
10 Stipulation Regarding CDCR's Production of Electronically Stored Information and Modification
11 of Discovery and Scheduling Order, ECF No. 120, remains unchanged.

12 **IT IS HEREBY STIPULATED** by and between the parties hereto through their
13 respective attorneys of record that having met and conferred regarding the respective calendars of
14 counsel that the Scheduling Order shall be amended as follows:

- 15 1. Deadline for the close of written fact discovery is: December 1, 2019;
- 16 2. Deadline for production of Plaintiff's expert reports is: February 1, 2020;
- 17 3. Deadline for fact depositions remains February 1, 2020;
- 18 4. Deadline for production of Defendants' expert reports is: April 1, 2020;
- 19 5. Deadline to complete expert depositions is: May 15, 2020; and
- 20 6. Deadline for dispositive motions to be filed is: June 15, 2020.

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22 Dated: October 14, 2019

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26 By: /s/ Christopher J. Bower
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Joseph "Cinnamon" Becker

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Dated: October 14, 2019

XAVIER BECERRA
Attorney General of California
CHRISTOPHER J. BECKER
Supervising Deputy Attorney General

By: /s/ Robert M. Perkins, III (as
authorized on Oct. 14, 2019)
ROBERT M. PERKINS, III
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*Attorneys for Defendants Martinez,
Wetenkamp, Charkow-Ross, Peterson,
Cartagena and Loyd*

*Attorneys for Third-Party California
Department of Corrections and
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ORDER

IT IS SO ORDERED.

Dated: October 15, 2019


UNITED STATES MAGISTRATE JUDGE

No. 205