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12 Attorneys for Defendant

RICHARD V. SPENCER

13 Secretary of the Navy

15 IN THE UNITED STATES DISTRICT COURT

16 EASTERN DISTRICT OF CALIFORNIA

18 DARRYL S. PHILLIPS,

19 Plaintiff,

20 v.

21 RICHARD V. SPENCER, Secretary of the
Navy,

22 Defendant.

Case No. 1:16-cv-01944-DAD-SKO

**STIPULATION AND ORDER FOR (1) FILING
THIRD AMENDED COMPLAINT; (2)
SETTING DEADLINE TO RESPOND TO
THIRD AMENDED COMPLAINT; AND (3)
CONTINUING SCHEDULING CONFERENCE**

(Doc. 56)

1 IT IS HEREBY STIPULATED, by and between the parties and subject to Court approval, that:

2 (1) Plaintiff shall file a Third Amended Complaint on or before February 23, 2018;

3 (2) Defendant shall respond to the Third Amended Complaint on or before March 23, 2018;
4 and

5 (3) the Scheduling Conference currently set for February 15, 2018, at 9:30 a.m., shall be
6 continued to April 26, 2018, at 9:30 a.m., and the parties shall file a Joint Scheduling
7 Report on or before April 19, 2018.

8 The reasons for this Stipulation are as follows:

9 1. Plaintiff Darryl S. Phillips retained counsel on October 23, 2017, and filed the operative
10 Second Amended Complaint (“SAC”) on December 15, 2017, alleging one claim for “Review of
11 Administrative Denial of Request to Upgrade Plaintiff’s Discharge to General Discharge.” ECF No. 51.
12 Defendant Richard V. Spencer’s initial response to the SAC is due to be filed on or before February 13,
13 2018. *See* ECF No. 50; Fed. R. Civ. P. 12(a).

14 2. Defendant lodged the Administrative Record on January 24, 2018. ECF Nos. 54, 55.

15 3. Beginning January 26, 2018, the parties met and conferred regarding Defendant’s
16 anticipated motion to dismiss the SAC. As a result of these discussions, the parties have agreed that
17 Plaintiff may file a Third Amended Complaint on or before February 23, 2018, and Defendant may
18 respond to the Third Amended Complaint on or before March 23, 2018.

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1 4. In light of the foregoing, and to enhance the efficiency of the Scheduling Conference, the
2 parties respectfully request that the Scheduling Conference be continued from February 15, 2018, to
3 April 26, 2018.
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5 Dated: February 7, 2018

/s/ M. René Huff (authorized on 2/7/2018)
M. RENÉ HUFF

Attorney for Plaintiff

8 Dated: February 7, 2018

MCGREGOR W. SCOTT
United States Attorney

10 By: /s/ Joseph B. Frueh
JOSEPH B. FRUEH
Assistant United States Attorney

11 Attorneys for Defendant
12 RICHARD V. SPENCER
13 Secretary of the Navy

14 **ORDER**

15 Pursuant to the parties' stipulation, and good cause having been shown, the Court GRANTS the
16 Plaintiff leave to file a Third Amended Complaint by no later than February 23, 2018. Defendant
17 SHALL respond to the Third Amended Complaint by no later than March 23, 2018.

18 The Scheduling Conference set for February 15, 2018, is hereby **CONTINUED to May 3, 2018,**
19 **at 10:15 A.M. in Courtroom 7 before Magistrate Judge Sheila K. Oberto.** The parties SHALL file
20 their joint scheduling report by no later than April 26, 2018.

21 IT IS SO ORDERED.

23 Dated: **February 7, 2018**

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE