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12 Attorneys for Defendants,  
13 City of Merced, Cody McComb,  
14 Nicholas de Jong [erroneously sued herein as “Nicolas Dejon”]  
15 And Dominic Saelee

16 **UNITED STATES DISTRICT COURT**  
17 **EASTERN DISTRICT OF CALIFORNIA FRESNO DIVISION**

18 ARMANDO DIAZ, ) Case No.: 1:23-CV-00065-JLT-SKO  
19 Plaintiff, )  
20 vs. ) **STIPULATION TO MODIFY**  
21 ) **SCHEDULING ORDER AND ORDER**  
22 )  
23 CITY OF MERCED, CODY McCOMB, ) **(Doc. 13)**  
24 NICOLAS DEJON, DOMINIC SAELEE, and )  
25 DOES 1-15, inclusive )  
26 Defendants. )

27 Pursuant to Local Rule 143 the parties stipulate and ask the Court to Order that the  
28 scheduling order entered on May 30, 2023 (ECF No. 11) be modified by extending the discovery  
29 deadlines.

30 “The district court is given broad discretion in supervising the pretrial phase of litigation.”  
31 Johnson v. Mammoth Recreations, Inc., 975 F.2d 604, 607 (9th Cir. 1992) (citation and internal  
32 quotation marks omitted). Rule 16(b) provides that “[a] schedule may be modified only for good  
33 cause and with the judge’s consent.” Fed. R. Civ. P. 16(b)(4). “The schedule may be modified ‘if it  
34 cannot reasonably be met despite the diligence of the party seeking the extension.’” Zivkovic v.  
35 Southern California Edison Co., 302 F.3d 1080, 1087 (9th Cir. 2002) (quoting Johnson, 975 F.2d at

36 **STIPULATION TO MODIFY SCHEDULING ORDER AND ORDER**

1 607).

2 The parties have been diligent in its discovery efforts. The plaintiff's deposition was taken  
3 on December 12, 2023, and Defendants McComb, Saelee, and Dejong's depositions are currently  
4 set for February 13, 2024. (Declaration of Denny Yu ("Yu Decl.") ¶ 5 and 6.) Defendants served  
5 written discovery to Plaintiff in September of 2023, with Plaintiff providing responses in November.  
6 (Yu Decl. ¶ 7.) Defendants also subpoenaed records from the Sheriff's office related to Plaintiff's  
7 arrest, and has also subpoenaed medical records. Defendants are currently waiting on subpoenaed  
8 medical records from the Sheriff's Office third party medical vendor, Wellpath. (Yu Decl. ¶ 8.)

9 Defendants also plan to depose two witnesses disclosed by Plaintiff on January 26, 2024.  
10 (Yu Decl. ¶ 9). The parties are also currently engaged in written discovery. Plaintiff served written  
11 discovery to the City and all three individual defendants on November 20, 2023. (Yu. Decl. ¶ 9.)  
12 Due to the holidays and vacation schedules, Defendant was granted a discovery extension, with  
13 responses currently due on February 5, 2024. (Yu Decl. ¶ 9.)

14 Good cause exists for this extension. The parties have been diligent in conducting discovery,  
15 including written discovery, the deposition of the Plaintiff, and setting depositions of the individual  
16 defendants. Defendant also intends to depose two recently identified witnesses, which will require  
17 working around both parties' schedules and the witnesses' schedules. (Yu Decl. ¶ 10.)

18 The parties met and conferred on this issue and propose to modify the scheduling order as  
19 follows:

20 **Non-Expert Discovery Deadline:**

- 21 • Friday, May 24, 2024 (was March 25, 2024 [ECF 11])

22 **Expert Disclosures Deadline:**

- 23 • Monday, June 24, 2024 (was April 24, 2024 [ECF 11])

24 **Rebuttal Expert Disclosures Deadline:**

- 25 • Tuesday, July 24, 2024 (was May 24, 2024 [ECF 11])

26 **Expert Discovery to close on:**

- 27 • Monday, August 2, 2024 (was July 3, 2024 [ECF 11])

28 These changes should not affect the remaining deadlines.

1 Dated: February 2, 2024

LONGYEAR & LAVRA, LLP

2 By: /s/ Denny Yu

3 VAN LONGYEAR  
4 NICOLE M. CAHILL  
5 DENNY YU  
6 Attorneys for Defendants,  
7 City of Merced, Cody McComb,  
8 Nicholas de Jong and Dominic Saelee

9 Dated: February 2, 2024

WILLIAM L. SCHMIDT, ATTORNEY AT LAW,  
P.C.

10 /s/ William Schmidt [as authorized 2-2-24]

11 WILLIAM SCHMIDT  
12 *Attorney for Plaintiffs*

13 **ORDER**

14 The Court has reviewed the parties above Stipulation to Modify Scheduling Order.

15 For good cause shown (Fed. R. Civ. P. 16(b)(4)), IT IS HEREBY ORDERED that the  
16 parties are granted an extension of time. The non expert discovery deadline is EXTENDED to  
17 May 24, 2024. The expert disclosure deadline is EXTENDED to June 24, 2024. The rebuttal  
18 expert disclosures are EXTENDED to July 24, 2024. The close of expert discovery is  
19 EXTENDED to August 2, 2024. All other remaining deadlines in the Scheduling Order (Doc.  
20 11) REMAIN AS SET.

21 IT IS SO ORDERED.

22 Dated: February 5, 2024

23 /s/ Sheila K. Oberto  
24 UNITED STATES MAGISTRATE JUDGE