

Amended Third Stipulation, Request to Modify the Scheduling Order, and [Proposed] Order (2:07-cv-2291 GGH P)
KAMALA D. HARRIS, State Bar No. 146672
 Attorney General of California
TRACY S. HENDRICKSON, State Bar No. 155081
 Supervising Deputy Attorney General
JAIME M. GANSON, State Bar No. 230206
 Deputy Attorney General
 1300 I Street, Suite 125
 P.O. Box 944255
 Sacramento, CA 94244-2550
 Telephone: (916) 324-6421
 Fax: (916) 324-5205
 E-mail: Jaime.Ganson@doj.ca.gov
Attorneys for Defendants Kopec and Martin

IN THE UNITED STATES DISTRICT COURT
 FOR THE EASTERN DISTRICT OF CALIFORNIA
 SACRAMENTO DIVISION

<p>LEVON GRAHAM,</p> <p style="text-align: right;">Plaintiff,</p> <p style="text-align: center;">v.</p> <p>D. L. RUNNELS, ET AL.,</p> <p style="text-align: right;">Defendants.</p>	<p>2:07-cv-2291 GGH P</p> <p>AMENDED THIRD STIPULATION, REQUEST TO MODIFY THE SCHEDULING ORDER, AND [PROPOSED] ORDER EXTENDING DEFENDANTS’ DEADLINE FOR FILING DISPOSITIVE MOTION</p>
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REQUEST TO MODIFY THE SCHEDULING ORDER

A scheduling order may be modified upon a showing of good cause, Fed. R. Civ. P. 16(b). Good cause exists when the deadline cannot be met despite due diligence. *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir. 1992).

This Court previously modified the scheduling order, upon the parties’ stipulation, to extend the Plaintiff’s deadline for taking depositions to November 9, 2011, and Defendants’

dispositive motion deadline to November 23, 2011. (ECF No. 83.) The remaining depositions were completed and the parties indicated to the Court Reporter which portions of the transcripts should be designated as confidential. While this process was ongoing, the Court again modified the scheduling order, upon the parties' stipulation, to extend the Defendants' dispositive motion deadline to December 22, 2011, to accommodate the completion of the deposition transcripts. (CD 89.)

The deponents have not yet reviewed and returned the transcripts, and this process is taking longer than anticipated. Defendants intend to include testimony from these deposition transcripts in their motion for summary judgment. But, because the transcripts are not yet finalized, Defendants cannot complete their dispositive motion before the current December 22, 2011 deadline. The parties, therefore, request that the Court extend the deadline for Defendants to file a dispositive motion to February 24, 2012.

STIPULATION

The parties, through their respective counsel of record, stipulate that:

1. The deadline for Defendants to file and/or re-notice any dispositive motion shall be extended until February 24, 2012;
2. Plaintiff's opposition to Defendants' dispositive motion shall be due on or before March 22, 2012;
3. Defendants' reply in support of their dispositive motion shall be due on or before March 29, 2012; and
4. The hearing on Defendants' dispositive motion shall be held on April 5, 2012, or on a date thereafter to be set by the Court.

Dated: December 19, 2011

/s/ Brendan K. Kelleher
Brendan K. Kelleher
LATHAM & WATKINS LLP
Attorneys for Plaintiff Levon Graham

Dated: December 19, 2011

/s/ Jaime M. Ganson
Jaime M. Ganson
Deputy Attorney General
Attorney for Defendants Martin and Kopec

ORDER

Good cause shown, the deadline for Defendants to file and/or re-notice any dispositive motion shall be extended until February 24, 2012. Plaintiff's opposition shall be due on or before March 22, 2012, and Defendants' reply shall be due on or before March 29, 2012. The hearing on Defendants' dispositive motion shall be held on April 5, 2012, or on a date thereafter to be set by the Court.

IT IS SO ORDERED.

Dated: December 22, 2011

/s/ Gregory G. Hollows
UNITED STATES MAGISTRATE JUDGE

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