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

12 **LEVON GRAHAM,**  
 13  
 Plaintiff,  
 14  
 v.  
 15  
 16 **D. L. RUNNELS, ET AL.,**  
 17 Defendants.

2:07-cv-2291 GGH P

**FOURTH STIPULATION, REQUEST TO  
 MODIFY THE SCHEDULING ORDER,  
 AND [~~PROPOSED~~] ORDER EXTENDING  
 DEFENDANTS' DEADLINE FOR FILING  
 DISPOSITIVE MOTION**

19 **REQUEST TO MODIFY THE SCHEDULING ORDER**

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

23 This Court previously modified the scheduling order, upon the parties' stipulation, to  
 24 extend the Plaintiff's deadline for taking depositions to November 9, 2011, and Defendants'  
 25 dispositive motion deadline to November 23, 2011. (ECF No. 83.) The remaining depositions  
 26 were completed, and the parties indicated to the Court Reporter which portions of the transcripts  
 27 should be designated as confidential. While this process was ongoing, the Court again modified  
 28 the scheduling order, upon the parties' stipulation, to extend the Defendants' dispositive motion

1 deadline to December 22, 2011, to accommodate the completion of the deposition transcripts.  
2 (CD 89.)

3 The non-party deponents have not yet reviewed and returned the transcripts, and this  
4 process is taking longer than anticipated. Defendants intend to include testimony from these  
5 deposition transcripts in their motion for summary judgment. But, because the transcripts are not  
6 yet finalized, Defendants cannot complete their dispositive motion before the current February  
7 24, 2012 deadline. The parties, therefore, request that the Court extend the deadline for  
8 Defendants to file a dispositive motion to March 29, 2012.

9 **STIPULATION**

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

- 11 1. The deadline for Defendants to file or re-notice any dispositive motion shall be  
12 extended until March 29, 2012;
- 13 2. Plaintiff's opposition to Defendants' dispositive motion shall be due on or before  
14 May 1, 2012;
- 15 3. Defendants' reply in support of their dispositive motion shall be due on or before  
16 May 17, 2012; and
- 17 4. The hearing on Defendants' dispositive motion shall be held on May 24, 2012.

18 Dated: February 22, 2012

/s/ Brendan K. Kelleher

19 Brendan K. Kelleher  
20 LATHAM & WATKINS LLP  
Attorneys for Plaintiff Levon Graham

21  
22 Dated: February 22, 2012

/s/ Jaime M. Ganson

23 Jaime M. Ganson  
24 Deputy Attorney General  
Attorney for Defendants Martin and Kopec

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**ORDER**

Good cause shown, the deadline for Defendants to file or re-notice any dispositive motion shall be extended until March 29, 2012. Plaintiff's opposition shall be due on or before May 1, 2012, and Defendants' reply shall be due on or before May 17, 2012. The hearing on Defendants' dispositive motion shall be held on May 24, 2012, at 10:00 a.m.

*The court will not consider any further requests for extension of time.*

**IT IS SO ORDERED.**

Dated: February 23, 2012

/s/ Gregory G. Hollows

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U.S. MAGISTRATE JUDGE

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