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

12
13 **SHERIE LEMIRE,**

14 Plaintiff,

15 v.

16 **CALIFORNIA DEPARTMENT OF**
17 **CORRECTIONS AND**
18 **REHABILITATION,**

19 Defendants.

No. 2:08-cv-00455 GEB-EFB

**STIPULATION AND PROPOSED
ORDER FOR THREE-DAY EXTENSION
OF DEADLINE TO FILE MOTIONS RE
PROPOSITIONS 36 AND 47**

20
21 Under Federal Rule of Civil Procedure 16(b)(4) and Local Rule 143, the parties, through
22 their counsel of record, agree to and request a three-day extension of the deadline to file their
23 motions concerning Propositions 36 and 47 that are currently due on January 5, 2015, based on
24 the Pretrial Order dated December 10, 2014. (*See* ECF No. 154, 7:12-9:2.) Good cause exists to
25 grant this stipulation because defense counsel is preparing for trial that is scheduled to start on
26 January 6, and the parties require more time to work out a stipulation of pertinent facts that will
27 aid the Court in its determination concerning the applicability of Propositions 36 and 47.
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1 The court may modify a final pretrial order to prevent manifest injustice. Fed. R. Civ. P.
2 16(e). A scheduling order may be modified only upon a showing of good cause and by leave of
3 Court. Fed. R. Civ. P. 6(b)(1)(A), 16(b)(4); *see, e.g., Johnson v. Mammoth Recreations, Inc.*, 975
4 F.2d 604, 609 (describing the factors a court should consider in ruling on such a motion). In
5 considering whether a party moving for a schedule modification has good cause, the Court
6 primarily focuses on the diligence of the party seeking the modification. *Johnson*, 975 F.2d at
7 609 (citing Fed. R. Civ. P. 16 advisory committee’s notes of 1983 amendment). “The district
8 court may modify the pretrial schedule ‘if it cannot reasonably be met despite the diligence of the
9 party seeking the amendment.’” *Id.* (quoting Fed. R. Civ. P. 16 advisory committee notes of 1983
10 amendment).

11 Defense counsel is scheduled to start trial in the matter of *Sutherland v. Yates* (E.D. Cal.
12 No. 1:09-cv-2152 SAB) on January 6, 2015, before Magistrate Judge Boone, in the Fresno
13 Division of this Court. Defense counsel spent the majority of December preparing the necessary
14 trial documents and is currently undergoing final preparations for trial. Although defense counsel
15 has started working on the motion due in this case, she will be unable to complete Defendants’
16 motion by the current deadline.

17 Also, due to the holidays, the parties were unable to finalize a list of stipulated facts
18 concerning Robert St. Jovite’s criminal convictions. The parties believe that a set of stipulated
19 facts will assist and facilitate in the Court’s determination concerning the applicability and impact
20 of Propositions 36 and 47 on St. Jovite had he survived, including that date on which he would
21 have been released from prison. Counsel for the parties continue to confer and expect to reach an
22 agreement on many pertinent facts related to the motions. For these reasons, the parties request a
23 three-day extension, up to and including January 8, 2015, of the deadline to file their respective
24 motions.

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IT IS SO STIPULATED.

Dated: January 5, 2015

Respectfully submitted,
LAW OFFICES OF GREEN & GREEN, LLP
/s/ Geri Lynn Green
GERI LYNN GREEN
Attorneys for Plaintiff

Dated: January 5, 2015

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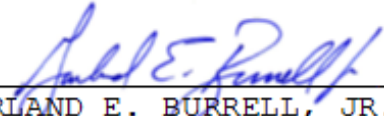
ORDER

The parties' stipulated request for a three-day extension of deadline to file their motions concerning Propositions 36 and 47 is granted.

The parties' motions concerning their respective positions on Propositions 36 and 47 shall be filed by no later than January 8, 2015.

IT IS SO ORDERED.

Dated: January 7, 2015



GARLAND E. BURRELL, JR.
Senior United States District Judge