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

19 **SHERIE LEMIRE,**

20 Plaintiff,

21 v.

22  
23 **CALIFORNIA DEPARTMENT OF**  
**CORRECTIONS AND**  
24 **REHABILITATION,**

25 Defendants.

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

**AMENDED STIPULATION AND  
PROPOSED ORDER FOR  
CONTINUANCE OF TRIAL AND FOR  
FURTHER SETTLEMENT  
CONFERENCE**

1 Under Federal Rule of Civil Procedure 16(b)(4) and Local Rule 143, the parties, through  
2 their counsel of record, agree to and request a continuance of the trial, currently set for March 31,  
3 2015, to August 4, 2015, and an order referring the parties to a settlement conference with  
4 Magistrate Judge Kendall J. Newman on May 4, 2015 at 9:00 a.m. (*See* ECF No. 154, 7:12-9:2.)  
5 Good cause exists to grant this stipulation because the parties believe that this case may settle if  
6 they have additional time to attend a settlement conference. The law has changed since the last  
7 settlement conference which significantly affects the position of the parties. Since the law  
8 changed, the parties have informally engaged in settlement discussions, however it is believed by  
9 all parties at this time that the discussions will likely be enhanced with the assistance of a neutral  
10 mediator who may help the parties come to an agreement.

11 The court may modify a final pretrial order to prevent manifest injustice. Fed. R. Civ. P.  
12 16(e). A scheduling order may be modified only upon a showing of good cause and by leave of  
13 Court. Fed. R. Civ. P. 6(b)(1)(A), 16(b)(4); *see, e.g., Johnson v. Mammoth Recreations, Inc.*, 975  
14 F.2d 604, 609 (describing the factors a court should consider in ruling on such a motion). In  
15 considering whether a party moving for a schedule modification has good cause, the Court  
16 primarily focuses on the diligence of the party seeking the modification. *Johnson*, 975 F.2d at  
17 609 (citing Fed. R. Civ. P. 16 advisory committee’s notes of 1983 amendment). “The district  
18 court may modify the pretrial schedule ‘if it cannot reasonably be met despite the diligence of the  
19 party seeking the amendment.’” *Id.* (quoting Fed. R. Civ. P. 16 advisory committee notes of 1983  
20 amendment).

21 The parties have been diligently preparing for trial, which is currently scheduled to start on  
22 March 31, 2015. All, but a few of the filings, have been submitted. The only deadline that  
23 remains is the one for filing objections to trial exhibits, transcript designations and objections, and  
24 an agreed upon statement of undisputed facts. (*See* ECF No. 214.) It is requested at this time,  
25 that this date be extended as well to 14 days before the new trial date of August 4, 2015.

26 The parties attended a settlement conference with Magistrate Judge Newman on May 13,  
27 2014, but the case did not settle. (ECF No. 142.) Since then, the parties have been working to  
28 prepare this case for trial—designating experts, stipulating to facts concerning the applicability of

1 recent law that have affected the damages claims, and filing the necessary trial-related documents.  
2 (See ECF Nos. 157-165, 170-177, 180-199, 202-204, 206-213.)

3 In late February, the parties resumed informal settlement discussions while continuing their  
4 trial preparations. The parties have reached a point where they believe that the assistance of a  
5 Magistrate Judge can help the parties reach an agreement and avoid the time and expense of a  
6 trial. The parties have contacted Magistrate Judge Newman's Courtroom Deputy, and are  
7 informed that the earliest date the magistrate is available for a settlement conference in this case  
8 is May 4, 2015. The parties have reserved the date if this stipulation is granted.

9 For these reasons, the parties request that the Court continue the trial to August 4, 2015, to  
10 give the parties more time to continue their settlement discussions and participate in a further  
11 settlement conference with a magistrate judge. The requested extension may result in the  
12 resolution of the case without the burden and cost of a trial.

13  
14 Dated: March 20, 2015

Respectfully submitted,

15 KAMALA D. HARRIS  
16 Attorney General of California  
17 CHRISTOPHER J. BECKER  
Supervising Deputy Attorney General

18 */s/ Diana Esquivel*

19 DIANA ESQUIVEL  
20 Deputy Attorney General  
*Attorneys for Defendants*

21  
22 Dated: March 20, 2015

LAW OFFICES OF GREEN & GREEN, LLP

23 */s/ Geri Lynn Green*

24 GERI LYNN GREEN  
25 *Attorneys for Plaintiffs*

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**ORDER**

The parties' stipulated request to continue the trial is GRANTED.

The March 31, 2015 trial is VACATED.

Trial is continued to and will commence at 9:00 a.m. on August 4, 2015.

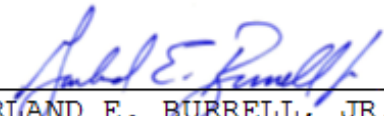
No later than fourteen days before trial, the parties shall file objections to trial exhibits and an agreed upon statement of undisputed facts and submit transcript designations and objections.

The parties have leave to seek to schedule a further settlement conference with a Magistrate Judge at a mutually convenient time by contacting the deputy clerk for that Magistrate Judge.

In all other respects, the Pretrial Order, dated December 10, 2014 (ECF No. 154), shall remain in full force and effect.

IT IS SO ORDERED.

Dated: March 20, 2015

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