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 9 Hellwig

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

14 **ROBERT MITCHELL, et al.,**
 15
 16 Plaintiffs,
 17
 18 **MATTHEW CATE, et al.,**
 19 Defendants.

Case No. 2:08-CV-01196 JAM EFB

**JOINT STIPULATION AND
 [PROPOSED] ORDER TO EXTEND
 DEADLINE TO HEAR DEFENDANTS'
 MOTION TO QUASH PLAINTIFFS'
 THIRD-PARTY SUBPOENA**

Judge: The Honorable Edmund F.
 Brennan

21
 22 Under Local Rule 144, Plaintiffs Robert Mitchell, Alvaro Quesada, Tony Trujillo, and
 23 Hanif Abdullah (“Plaintiffs”) and Defendants M. Cate, S. Kernan, T. McDonald, G. Giurbino, J.
 24 Tilton, T. Felker, M. Wright, F. Foulk, D. Vanderville, J. Owen, and D. Hellwig (“Defendants”)
 25 (collectively the “Parties”) enter into this stipulation to extend the briefing schedule and hearing
 26 on Defendants’ Motion to Quash Plaintiffs’ Third-Party Subpoena.

1 IT IS HEREBY STIPULATED AND AGREED by the Parties:

2 1. On October 25, 2012, Plaintiffs attempted to serve a document subpoena on third-
3 party Mr. Jeffrey Beard.

4 2. The compliance date specified for Mr. Beard's production was set for November 26,
5 2012.

6 3. Defendants contend that the subpoena was not served by "delivering a copy to the
7 named person" as required by Federal Rule of Civil Procedure 45(b)(1).

8 4. If the subpoena had been personally served on Mr. Beard, any objections to the
9 subpoena must be served within 14 days after service of the subpoena or before the time
10 designated for compliance if less than 14 days after service. Fed. R. Civ. P. 45(c)(2)(B).

11 5. Although Mr. Beard has not yet been personally served with the subpoena, the parties
12 nonetheless agree that Mr. Beard has actual notice of the subpoena.

13 6. At Defendants' request, Plaintiffs agree that this stipulated extension relieves Mr.
14 Beard of his obligation to comply with the November 26, 2012 production deadline pending a
15 ruling from the Court on Defendants' Motion to Quash.

16 7. On November 1, 2012, the Court informed defense counsel that it will be dark on
17 November 21, 2012—the Court's regular law and motion calendar day.

18 8. Local Rule 251(b) provides that a discovery motion will "not be heard unless (1) the
19 parties have conferred and attempted to resolve their differences, and (2) the parties have set forth
20 their differences and the bases therefor in a Joint Statement re Discovery Disagreement."

21 Although not explicit, this Court has held that Local Rule 251's joint statement requirement
22 applies to motions to quash. *See Portnoy v. City of Woodland*, Case No. CIV S-11-1720 GEB
23 EFB (E.D. Cal., Feb. 13, 2012).

24 9. The Parties agree that extended time on Defendants' Motion to Quash is appropriate.

25 10. The Parties also agree that the extended schedule will have no impact on other
26 deadlines in this case.

27 11. The Parties agree that this extension does not extend the date for any other discovery
28 in the matter.

1 12. The parties agree that this extension does not extend or change any of the pre-trial
2 dates set by the Pretrial Scheduling Order dated August 28, 2012.

3 **THE PARTIES HEREBY STIPULATE AND AGREE** as follows:

4 The Parties shall have until November 28, 2012 to file a “Joint Statement re Discovery
5 Dispute” in accordance with Local Rule 251(c). Defendants’ Motion to Quash will be heard on
6 December 5, 2012 at 10:00 a.m, or at the Court’s earliest convenience.

7
8 **IT IS SO STIPULATED.**

9 Dated: 11/8/12

/s/ Damon McClain
DAMON MCCLAIN
Attorneys for Defendants

11 **IT IS SO STIPULATED.**

12 Dated: 11/8/12

/s/
REBEKAH EVENSON
Attorneys for Plaintiffs

15 **IT IS SO ORDERED.**

16 Dated: November 15, 2012


EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE

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