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13 UNITED STATES DISTRICT COURT
 14 EASTERN DISTRICT OF CALIFORNIA

16 ROBERT MITCHELL,
 17 Plaintiff,
 18 v.
 19 TOM FELKER, et al.,
 20 Defendants.

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

**STIPULATION AND ~~PROPOSED~~
 ORDER AMENDING SCHEDULING
 ORDER**

Action filed: May 30, 2008

STIPULATION AND ORDER AMENDING SCHEDULING ORDER

1
2 Plaintiffs and Defendants, through their counsel of record, stipulate to an amended pre-
3 trial schedule, and request an order of the Court as follows:

4 1. The Second Amended Complaint in this action seeks injunctive relief regarding
5 the official policy of the California Department of Corrections and Rehabilitation (“CDCR”)
6 regarding modified programs and/or lockdowns.

7 2. On August 28, 2012, the Court entered a Scheduling Order, setting pre-trial
8 deadlines, including a fact-discovery cutoff of March 13, 2013. *See* Dkt. 121.

9 3. On August 28, 2012, the day discovery opened, Plaintiffs served Requests for
10 Production and Interrogatories on Defendants. On October 1, 2012, Defendants served
11 Responses to Plaintiffs’ Requests for Production and Interrogatories. On October 3, 2012,
12 Plaintiff moved to compel discovery, and the parties filed a Joint Statement on October 17, 2012.

13 4. On October 26, 2012, the Court ordered that Defendants shall produce documents
14 on a rolling basis according to the schedule proposed by Defendants in the parties’ Joint
15 Statement, which proposed that all documents would be produced by November 26, 2012. The
16 Court also ordered the parties to meet and confer about electronic discovery.

17 5. Since the Court’s Order, the parties have continued to meet and confer about
18 discovery. Defendants have been producing documents on a rolling basis. However,
19 Defendants’ document production is still ongoing and not yet complete. Defendants expect to
20 finish their production at the end of March - after the discovery cutoff - and Plaintiffs have
21 requested that production be completed earlier.

22 6. On January 3, 2013, Plaintiffs noticed 14 additional depositions which have not
23 yet been scheduled. Defendants proposed dates for some of these depositions, which begin on
24 February 22 and continue through March 21 - after the discovery cut-off. Plaintiffs also
25 anticipate noticing the depositions of the named Defendants in this action.

26 7. Given the discovery that remains outstanding, that Defendants do not expect to
27 finish their production until the end of March, that Plaintiffs will then need more time to review
28 and analyze those documents and determine if additional discovery or depositions are necessary

1 based on the documents, and that Defendants proposed dates for depositions to take place after
2 the discovery cutoff, Plaintiffs requested a 30 day extension to the pre-trial deadlines in the
3 Court's Scheduling Order. Defendants agreed and proposed a 45 day extension.

4 8. The parties also agree that, given the outstanding discovery and the need for fact
5 discovery to be completed to evaluate the need for experts, the deadline for expert disclosures
6 should be extended by an additional 15 days, or by 60 days total.

7 9. THEREFORE, the parties stipulate and propose that pre-trial schedule be
8 amended as follows:

9 A. Non-Expert Discovery

10 1. The deadline to complete all non-expert discovery, formerly March 13,
11 2013, shall now be April 30, 2013.

12 2. The deadline to hear discovery motions, formerly February 3, 2013, shall
13 now be March 27, 2013.

14 B. Expert Discovery

15 1. The deadline to serve expert disclosures, formerly March 13, 2013, shall
16 now be May 15, 2013.

17 2. The deadline to serve expert rebuttal reports, formerly April 8, 2013, shall
18 now be June 10, 2013.

19 3. The deadline to complete all expert discovery, formerly May 20, 2013,
20 shall now be July 19, 2013.

21 C. Law and Motion

22 1. The deadline to *hear* any law and motion matter, formerly July 3, 2013,
23 shall now be August 19, 2013.

24 D. Pretrial Conference

25 1. The deadline for the parties to file a joint pretrial statement, formerly
26 August 21, 2013, shall now be **November 20, 2013** ~~September 21, 2013~~.
27
28

1 2. The pretrial conference, formerly scheduled on August 28, 2013, shall
2 now be held on **December 4, 2013** ~~September 28, 2013~~ at 10:00am.

3 E. Trial

4 1. The trial date, **formerly scheduled on** ~~shall remain the same as previously~~
5 ~~scheduled,~~ **October 21, 2013, shall now be held on March 3, 2014, at 8:30 a.m.**

7 DATED: February 7, 2013

DATED: February 7, 2013

8 BINGHAM MCCUTCHEN LLP

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Attorney General of the State of California

11 By: /s/ Heather Shook

By: /s/ Damon McClain

12 Heather Shook
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Damon McClain
Supervising Deputy Attorney General
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(As authorized on February 7, 2013)

17 SO ORDERED.

18 DATED: February 8, 2013.


EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE