

1 SEYFARTH SHAW LLP
 James D. McNairy (SBN 230903)
 2 jmcnairy@seyfarth.com
 Sophia S. Kwan (SBN 257666)
 3 skwan@seyfarth.com
 Julie G. Yap (SBN 243450)
 4 jyap@seyfarth.com
 400 Capitol Mall, Suite 2350
 5 Sacramento, California 95814-4428
 Telephone: (916) 448-0159
 6 Facsimile: (916) 558-4839

7 Attorneys for Plaintiff
 JAMES OLIVER

8 DEPARTMENT OF JUSTICE
 9 Office of Attorney General of California
 Kevin W. Reager (SBN 178478)
 10 1300 I Street
 P. O. Box 944255
 11 Sacramento, CA 94244-2550
 Telephone: (916) 324-5331
 12 Facsimile: (916) 322-8288

13 Attorneys for Defendant
 SCOTT CHESSER

15 UNITED STATES DISTRICT COURT
 16 EASTERN DISTRICT OF CALIFORNIA

18 JAMES OLIVER,
 19 Plaintiff,
 20 v.
 21 SCOTT CHESSER,
 22 Defendant.

Case No. 2:08-cv-2524 LKK AC P

**STIPULATION AND [PROPOSED]
 ORDER TO MODIFY SCHEDULING
 ORDER**

Judge: Hon. Lawrence K. Karlton

23
 24 Pursuant to Rule 16(b) of the Federal Rules of Civil Procedure, Local Rules 240 and 270,
 25 and the Court’s Pretrial Scheduling Order, Plaintiff James Oliver and Defendant Scott Chesser
 26 hereby submit this Stipulation and [Proposed] Order to Modify the Pretrial Scheduling Order to
 27 reopen discovery and set tentative trial dates in this matter.
 28

1 On July 21, 2010, this Court issued a Pretrial Scheduling Order in this matter. At the
2 time, Plaintiff was not represented by counsel. The Court set the discovery deadline as January
3 7, 2011 and a dispositive motion deadline of April 29, 2011. The Court did not set a trial date.

4 Subsequently, the Court extended the discovery deadline until April 7, 2011 and the
5 dispositive motion deadline until July 15, 2011. The dispositive motion deadline was again
6 extended to November 28, 2011.

7 On August 10, 2012, Magistrate Judge Gregory G. Hollows issued Findings and
8 Recommendations, recommending that Plaintiff's motion for summary judgment be denied and
9 that Defendants' motion for judgment on the pleadings be granted in part and denied in part,
10 leaving only a retaliation claim. On September 27, 2012, the Court adopted the Findings and
11 Recommendations in full.

12 On December 14, 2013, Plaintiff filed a motion to appoint counsel, which was granted on
13 February 12, 2013. There are currently no dates set in this matter.

14 Since the appointment of counsel for Plaintiff, the parties have been diligently working
15 together to find available trial dates and to conduct additional discovery. The parties have made
16 progress on many issues, but need to reopen formal discovery to complete the remainder of the
17 discovery agreed to in principle in this case. For example, the parties anticipate taking
18 depositions of incarcerated individuals in this case who previously submitted declarations in
19 support of dispositive motions. Such depositions may require leave of court pursuant to Federal
20 Rule of Civil Procedure 30. Further, a court order may be necessary to authorize subpoenas for
21 relevant written records within the custody and control of the California Department of
22 Corrections and Rehabilitation. Accordingly, the parties seek a modification of the Pretrial
23 Scheduling Order to reopen discovery.

24 The parties have also conferred and agreed upon a general date on which all parties are
25 available for trial. The parties anticipate that trial in this matter will be approximately 1-2 court
26 days. The parties are available during the month of July 2014 for trial.

27 ///

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

THE PARTIES THROUGH THEIR RESPECTIVE COUNSEL HEREBY STIPULATE:

- 1. The Parties agree to reopen discovery to allow further investigation of the claim at issue in this Action since the appointment of counsel for Plaintiff.
- 2. The parties may conduct discovery until February 7, 2014. Any motions necessary to compel discovery shall be filed by that date.

Dated: September 25, 2013

SEYFARTH SHAW LLP

By: /s/ Julie G. Yap
James D. McNairy
Sophia S. Kwan
Julie G. Yap
Attorneys for Plaintiff
JAMES OLIVER

Dated: September 25, 2013

DEPARTMENT OF JUSTICE
Office of the Attorney General of California

By: /s/ Kevin Reager
Kevin Reager
Attorneys for Defendant
SCOTT CHESSER

IT IS SO ORDERED.

DATED: September 25, 2013


ALLISON CLAIRE
UNITED STATES MAGISTRATE JUDGE