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 10 UNITED STATES DISTRICT COURT
 11 EASTERN DISTRICT OF CALIFORNIA

12
 13 Michael Aaron Jayne,
 14 Plaintiff,
 15 vs.

16 Tom Bosenko, et al.,
 17 Defendants.

)
) Case No.: 2:08-cv-2767-TLN-EFB P
)
) **STIPULATION AND [PROPOSED]**
) **ORDER TO EXTEND FILING DATE OF**
) **PLAINTIFF'S PRETRIAL STATEMENT**
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 22 Pursuant to Local Rule 143 the parties ask the Court to extend the date by when the
 23 Plaintiff must file his pretrial statement for an additional thirty (30) days, from the original date
 24 of February 13, 2015 to the proposed date of March 16, 2015. Good cause exists for this
 25 extension as explained below.

1 A scheduling order may be modified upon a showing of good cause. Good cause exists
2 when the moving party demonstrates that it cannot meet the schedule despite exercising due
3 diligence. *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir. 1992).

4 Despite the exercise of due diligence, the Plaintiff requires an extension of time to file the
5 pretrial statement. The Plaintiff is represented by the UC Davis Civil Rights Clinic (Clinic). In
6 the course of reviewing and cataloguing over three large boxes of case materials, as well as
7 electronic documents, the students assigned to the Plaintiff's case found that the discovery files
8 were incomplete and potentially missing documents crucial to the Plaintiff's argument. Mr.
9 White and the Clinic have been working with opposing counsel to obtain these missing
10 documents.

11 Additionally, despite the due diligence of the Plaintiff's counsel, there has been
12 inadequate time for confidential communications between Plaintiff and his counsel. Mr. Jayne is
13 in federal prison in Tucson, AZ. Mr. White met with Mr. Jayne in December 2014. In order to
14 avoid the expense of additional travel, the Clinic has attempted to schedule confidential
15 telephone conferences with Plaintiff. There have been difficulties obtaining phone calls with the
16 Plaintiff that are sufficient in length to discuss his case. While the prison indicated it had allotted
17 two hours of conference for the a phone call on January 30, 2015, only a little over an hour of the
18 time was provided to speak to the Plaintiff. The prison would not schedule a follow-up call with
19 Plaintiff as requested during the following week. Mr. White and the Clinic were only able to
20 schedule another phone call with the Plaintiff for February 10, 2015. This will still likely not
21 provide sufficient time to speak with the Plaintiff and adequately present all of the issues he
22 intends to set forth in his pretrial statement.

1 The parties respectfully ask that this Stipulation be entered as an order of the Court.

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3 Respectfully submitted,

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5 */S/ Carter C. White*

6 Dated: February 9, 2015

7 Carter C. White
8 Supervising Attorney

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10 *Counsel for Plaintiff, Michael Aaron Jayne*

11 */S/ Gary Brickwood*

12 Dated: February 10, 2015

13 Gary Brickwood
14 Brickwood Law Office

15 *Counsel for Defendants*

16 IT IS SO ORDERED:

17 Plaintiff's pretrial statement is due to be filed on or before March 16, 2015. Defendants
18 shall file a pretrial statement not later than 30 days after the filing of plaintiff's statement.

19 Dated: February 25, 2015.

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22 EDMUND F. BRENNAN
23 UNITED STATES MAGISTRATE JUDGE
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