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 9 TROY GABRIELSON

10 **IN THE UNITED STATES DISTRICT COURT**
 11 **IN AND FOR THE EASTERN DISTRICT OF CALIFORNIA**

13 TROY GABRIELSON, et al.,)	CASE NO. 2:09-CV-00538-FCD-KJM
)	
14 Plaintiffs,)	ORDER TO MODIFY PRETRIAL
)	SCHEDULING ORDER
15 vs.)	
)	
)	
17 UNITED STATES POSTAL SERVICE, et)	
18 al.,)	
)	
19 Defendants.)	

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21 COMES NOW THE PARTIES by and through their respective attorneys and subject to
 22 the approval of this Court, hereby agree to and respectfully request the below modifications
 23 and/or amendments to this Court’s May 1, 2009 Status (Pretrial Scheduling) Order (Docket No.
 24 5). The undersigned all participated in a conference on February 8, 2010 and agreed at that time
 25 to propose these joint requests.

26 The parties contend there is good cause for this request for the following reasons:

27 1) Plaintiffs were formerly jointly represented by Rik Barsotti in this matter whom
 28 originally filed suit in this matter on August 29, 2008 in Butte County Superior Court.

- 1 2) Defendant United States of America, incorrectly sued as United States Postal Service
2 removed this matter to the United States District Court for the Eastern District of
3 California on February 25, 2009.
- 4 3) On April 27, 2009, the parties filed a joint status report indicating that discovery could
5 be completed by mid-February.
- 6 4) On May 1, 2009, this Court issued a scheduling order setting a discovery cut-off of
7 February 16, 2010 and expert witness disclosure of March 2, 2010.
- 8 5) Following the removal of this action to federal court, Mr. Barsotti has not been in
9 contact with either of his former clients refusing to take their calls or reply to their
10 correspondence.
- 11 6) Hence on August 26, 2009, Jonathan B. Paul of the Law Offices of Moreno & Rivera,
12 associated into the case on behalf of Mr. Gabrielson and on October 7, 2009, John D.
13 Barr of Barr & Mudford, LLP, associated into the case on behalf of Mr. Bowen; notably,
14 at the time of the association of new counsel a motion to compel responses to discovery
15 was pending due to Mr. Barsotti's failure to cooperate in the discovery process.
- 16 7) Since new counsel's appearance in the case repeated attempts to obtain the files of the
17 Plaintiffs from Mr. Barsotti have proved unsuccessful as he has totally ignored all calls
18 and correspondence from Mr. Barr's office and Mr. Paul's office.
- 19 8) Mr. Barsotti has since been reported to the State Bar of California for his refusal to
20 cooperate and communicate with his clients.
- 21 9) Plaintiffs are unable to fully respond to outstanding defendants discovery requests in this
22 matter as both Plaintiffs proved information and documents to their former attorney and
23 they have yet to receive their client files from his office handcuffing their ability to
24 complete discovery in this case by the February 16, 2010 deadline currently set.
- 25 10) Plaintiff Gabrielson has issued a subpoena to Mr. Barsotti for his client file and shall be
26 filing a motion for contempt of court should Mr. Barsotti defy the subpoena.
- 27 11) The parties agree that this matter is not amenable to a motion for summary judgment;
28 hence the dispositive motion deadline is not an issue.

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The proposed modifications to the scheduling order are as follows:

- That the discovery cut-off date set for February 16, 2010, be moved to May 17, 2010.
- That the deadline for expert disclosure set for March 2, 2010, be moved to June 1, 2010.
- That the deadline for supplemental expert disclosure set for March 22, 2010, be moved to June 21, 2010.
- That the deadline for completion of all expert discovery set for April 23, 2010 be moved to July 22, 2010.

All other deadlines currently set in the Status (Pretrial Scheduling) Order do not require modification.

MORENO & RIVERA
/s/ Jonathan B. Paul

JONATHAN B. PAUL
Attorney for Plaintiff Troy Gabrielson

DATED: February 16, 2010

BARR & MUDFORD, LLP
/s/ John D. Barr (authorized on 2/16/10)

DATED: February 16, 2010

JOHN D. BARR
Attorney for Plaintiff Allan T. Bowen

UNITED STATES ATTORNEY'S OFFICE
/s/ Jason Ehrlinspiel (authorized on 2/16/10)

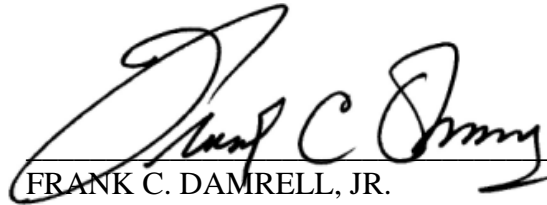
DATED: February 16, 2010

Jason Ehrlinspiel
Assistant U.S. Attorney
Attorney for Defendant United States
Postal Service

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IT IS SO ORDERED:

Dated: February 16, 2010

A handwritten signature in black ink, appearing to read "Frank C. Damrell, Jr.", written over a horizontal line.

FRANK C. DAMRELL, JR.
UNITED STATES DISTRICT JUDGE