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 TROFHOLZ TECHNOLOGIES, INC.,
 14 a California Corporation;
 BRENN A PEDONE; YVONNE GLENN;
 15 TROY GLENN, and ANDREW PARKER

16 UNITED STATES DISTRICT COURT
 17 EASTERN DISTRICT OF CALIFORNIA

18 JASON NIELSEN,
 19 Plaintiff,
 20 v.
 21 TROFHOLZ TECHNOLOGIES, INC., et al.,
 22 Defendant.
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 24

Case No.: 2:09-CV-00960-WBS-DAD

**STIPULATION AND [PROPOSED] ORDER
 TO MODIFY STATUS (PRETRIAL
 SCHEDULING) ORDER**

1 Plaintiff JASON NIELSEN and Defendants TROFHOLZ TECHNOLOGIES, INC., TROY
2 GLENN, YVONNE GLENN, BRENN A PEDONE, and ANDREW PARKER (collectively
3 “Defendants”) of the above-entitled action jointly submit this Stipulation and Proposed Order to
4 Modify the Court’s August 5, 2009, Status (Pretrial Scheduling) Order. For the reasons set forth
5 below, the parties request that the pretrial and trial dates be continued for 60-90 days.

6 In support of this Stipulation, the parties provide the Court with the following background
7 demonstrating good cause for the parties’ request, as required by Fed. R. Civ. P. 16(b).

8 **I. PROCEDURAL STATUS**

9 **A. Brief Summary of the Claims:**

10 Plaintiff Jason Nielsen (“Plaintiff”) is a former employee of Trofholz Technologies Inc,
11 (“TTI”) and worked as a project manager out of the Rocklin office. Plaintiff alleges that Defendant
12 Andrew Parker and a female employee, who was a direct subordinate of Plaintiff, at TTI had been
13 engaging in a sexual relationship and that as a result of said relationship, Parker had been favoring his
14 paramour and discriminating against Plaintiff. After Plaintiff’s report of the affair to TTI management
15 Defendants, and each of them, subjected Plaintiff to a hostile work environment, discrimination,
16 harassment, and retaliation, including, but not limited to, unjustified negative performance reviews,
17 unwarranted disciplinary actions, denial of pay increases and/or bonuses, further harassment and
18 retaliation, and ultimately, Defendant TTI’s wrongful termination of Plaintiff on or about December
19 30, 2008. Defendants deny these allegations.

20 **B. Status of Service of Process**

21 As of the time the Court issued its Status (Pretrial Scheduling) Order on August 5, 2009,
22 Plaintiff had not served defendant Andrew Parker. In its Status (Pretrial Scheduling) Order, the Court
23 ordered that Parker be served within forty (40) days of the date of the Order, or by September 14,
24 2009.

25 Parker does not reside in California, and is on active military duty in Washington, D.C.
26 Plaintiff was not able to serve Parker until on or around April 7, 2010. Parker answered Plaintiff’s
27 Complaint on April 26, 2010.

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1 **C. Status of Discovery**

2 The parties have exchanged written discovery requests and responses thereto.

3 The parties have exchanged expert witness reports.

4 Defendants TTI, Yvonne Glenn, Troy Glenn and Brenna Pedone took Plaintiff's deposition on
5 January 20, 2010.

6 Plaintiff has commenced depositions of defendants and various TTI employees, with several
7 depositions noticed for May and early June 2010.

8 The parties have yet to take the depositions of the other party's designated expert witnesses.

9 **II. GOOD CAUSE DEMONSTRATING NEED TO CONTINUE**

10 **SCHEDULING ORDER DEADLINES**

11 Scheduling orders entered before the final pretrial conference may be modified upon a showing
12 of "good cause." *Hannon v. Chater*, 887 F.Supp. 1303 (N.D.Cal. 1995); Fed. R. Civ. P. 16(b)(4).

13 With this understanding in mind, the parties believe "good cause" is present to support the need for an
14 extension of the case deadlines for approximately 60-90 days.

15 Defendant Parker is a Lt. Colonel in the United States Army, and is stationed at the Pentagon.
16 He resides in Arlington, Virginia. Although this case was filed on April 9, 2009, Plaintiff was unable
17 to serve Parker until April 7, 2010. Plaintiff believes that Parker is an integral party to this case.
18 Parker's addition to this action at this time creates serious problems under the existing schedule. The
19 current discovery cutoff date is June 7, 2010. Parker will serve written discovery shortly. Plaintiff of
20 course desires to take Parker's deposition, which given his military commitments may have to take
21 place in Virginia.

22 Counsel for the parties have met and conferred extensively on potential dates for various
23 depositions, and their current schedules for May 2010, coupled with Parker's current military schedule,
24 do not allow for a deposition of Parker before the currently scheduled discovery cutoff. The parties
25 believe his deposition will have to be scheduled some time in late June 2010.

26 In addition, due to unforeseen circumstances, the deposition of Yvonne Glenn, which was
27 scheduled for April 29, 2010, had to be rescheduled, and after meeting and conferring the parties'
28 counsel have no compatible dates on which to complete Ms. Glenn's deposition prior to the current

1 discovery cutoff date.

2 The parties already have several depositions set for May and early June 2010. Expert
3 depositions still need to be scheduled, but given counsel's respective schedules, those depositions will
4 be unable to take place until at least mid-June 2010. Moreover, the parties desire to complete non-
5 expert discovery before taking the expert depositions.

6 Therefore, to allow the parties to complete discovery in an orderly manner now that defendant
7 Parker has been served and has appeared in this action, the parties propose to extend the discovery
8 cutoff deadline by sixty (60) days, and to extent all other pretrial dates and the trial date by 60-90 days,
9 as follows:

<u>Deadline/Event</u>	<u>Current Date</u>	<u>Proposed Date</u>
Discovery Cut-Off (including experts)	June 7, 2010	August 6, 2010
Law and Motion Cutoff (filing deadline)	July 26, 2010	September 24, 2010
Pre-Trial Conference Date	October 4, 2010	December 6, 2010
Trial Date	December 4, 2010	March 8, 2011 ¹

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18 **STIPULATION**

19 The parties, through their counsel, HEREBY STIPULATE to amend the Status (Pretrial
20 Scheduling) Order as set forth above.

21 DATED: May 4, 2010

Ellis, Coleman, Poirier, LaVoie, & Steinheimer LLP

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23 By: /s/ Jennifer S. Gregory

JENNIFER S. GREGORY
Attorney For Plaintiff Jason Nielsen

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28 ¹ Defendants' counsel's current trial schedule precludes an earlier trial date in early 2011.

1 DATED: May 4, 2010

Downey Brand LLP

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3 By: /s/ Tory E. Griffin

4 TORY E. GRIFFIN
5 Attorney for Defendants
6 TROFHOLZ TECHNOLOGIES, INC., YVONNE
7 GLENN, TROY GLENN, BRENN A PEDONE
8 and ANDREW PARKER

9 **ORDER**

10 Based on the stipulation of the parties, and finding good cause therefore, the Court hereby
11 amends the August 5, 2009 Status (Pretrial Scheduling) Order as follows:

- 12 1. The discovery cutoff is extended to August 6, 2010;
- 13 2. All motions, except motions for continuances, temporary restraining orders, or other
14 emergency motions, shall be filed on or before September 24, 2010;
- 15 3. The Final Pretrial Conference is set for **December 13, 2010, at 2:00 p.m.** in Courtroom
16 No. 5; and
- 17 4. The jury trial is set for **March 15, 2011, at 9:00 a.m.**

18 IT IS SO ORDERED.

19 Dated: May 5, 2010

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21 WILLIAM B. SHUBB
22 UNITED STATES DISTRICT JUDGE
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