

1 DAVID P. MASTAGNI, ESQ. (SBN 057721)  
 CHRISTOPHER W. MILLER, ESQ. (SBN 166348)  
 2 JAMES B. CARR, ESQ. (SBN 053274)  
 DAVID E. MASTAGNI, ESQ. (SBN 204244)  
 3 **MASTAGNI, HOLSTEDT, AMICK,  
 MILLER & JOHNSEN**  
 4 *A Professional Corporation*  
 1912 "I" Street  
 5 Sacramento, California 95811

6 Telephone: (916) 446-4692  
 Facsimile: (916) 447-4254

7  
 8 Attorneys for Defendant,  
 James Wood

9 UNITED STATES DISTRICT COURT  
 10 EASTERN DISTRICT OF CALIFORNIA

12 SHIRLEY A. NEWMAN and ANTHONY C. ) CASE NO. 2:09-cv-03441-WBS-KJN  
 BUTLER, )  
 13 )  
 Plaintiffs, ) **STIPULATION TO MODIFY**  
 14 ) **PRE-TRIAL SCHEDULING ORDER**  
 v. ) **AND [~~PROPOSED~~] ORDER**  
 15 )  
 SAN JOAQUIN DELTA COMMUNITY )  
 16 COLLEGE DISTRICT, a public entity; )  
 DANIELE RULEY, JAMES WOOD, and )  
 17 DOES 1 through 100, inclusive, )  
 )  
 18 Defendants. )  
 19 \_\_\_\_\_ )

20 Plaintiffs, Shirley A. Newman and Anthony C. Butler, and Defendants, San Joaquin Delta  
 21 Community College District, James Wood, and Daniele Ruley, through their respective counsel,  
 22 submit the following Stipulation and Order to modify the Court's Pre-Trial Scheduling Order  
 23 dated May 13, 2010. The parties believe there is good cause to modify the Pre-Trial Order.  
 24 The Trial Date of October 4, 2011 remains unchanged under this modification proposal.

- 25 1. This action was removed from state court on December 11, 2009. The Plaintiffs  
 26 filed their Third Amended Complaint on June 16, 2010. [Ct. Doc. No. 40]
- 27 2. On May 13, 2010, the Court issued its Scheduling Order. There have been no  
 28 other requested modifications to the Scheduling Order. [Ct. Doc. No. 33]

1           3.       This action is based upon Plaintiffs' claims for violations of their civil rights,  
2 violations of the Americans With Disabilities Act and various common law claims.

3           4.       Under the existing Pre-Trial Order, Expert Disclosure is set for February 28,  
4 2011, and Rebuttal Experts are due March 30, 2011. The Discovery Cut-Off is April 29, 2011.  
5 Motions are to be filed by May 30, 2011.

6           5.       The Final Pre-Trial Conference is scheduled for August 8, 2011 and Trial is set  
7 for October 4, 2011. These dates are preserved under the proposed Stipulation to change the  
8 Scheduling Order.

9           6.       The parties are currently engaged in extensive discovery. Several motions to  
10 compel a physical examination of Shirley A. Newman, a mental examination and to compel  
11 productions of medical documents relating to the Plaintiff Shirley A. Newman. These motions  
12 are set for January 20, 2011. [Ct. Doc. Nos. 56, 57 and 58]

13           7.       The mental examination of plaintiff Shirley A. Newman is scheduled to occur  
14 on January 26 and 27, 2011. Further, Dr. Pfeiffer's examination has been rescheduled to  
15 February 2, 2011.

16           8.       The deposition of the Chief of Police, Mark Bromme, and Daniele Ruley are set  
17 for January 10, 2011.

18           9.       The deposition of Delta College employee Keeney is scheduled on January 11,  
19 2011.

20           10.      The depositions of the Plaintiffs, Shirley A. Newman and Anthony C. Butler,  
21 are set for March 1, 2011.

22           11.      There is insufficient time under the current Scheduling Order for the preparation  
23 of the reports of the health care professionals.

24           12.      There is insufficient time under the current Scheduling Order for the preparation  
25 of expert reports for the Defendants. This would be prejudicial to the Defendants.

26           13.      Plaintiffs further intend to depose other percipient witnesses to the event in  
27 question, and there is insufficient time under the current Scheduling Order to accomplish this  
28 task.

1           14. For each of the foregoing reasons, the parties agree and respectfully submit that  
2 good cause exists for the Court to modify the Court's current Scheduling Order to provide the  
3 parties sufficient time to conduct physical and mental examinations, to produce medical  
4 records, to prepare expert reports, to adequately conduct remaining discovery necessary to  
5 prosecute and defend this matter.

<u>ITEM</u>	<u>Old Dates</u>	<u>New Dates</u>
8 Expert Disclosure	02/28/2011	04/29/2011
9 Rebuttal Experts Disclosure	03/30/2011	05/27/2011
10 Discovery Cut-Off	04/29/2011	06/28/2011
11 Motions/ Orders	05/30/2011	07/29/2011
12 Final Pre-Trial Conference	08/08/2011	08/08/2011
13 Trial	10/04/2011	10/04/2011

14  
15 Respectfully Submitted,

16 Dated: 12/17/2010 **LAW OFFICES OF KENNETH N. MELEYCO**

17 By /s/Kenneth N. Meleyco  
18 KENNETH N. MELEYCO, Attorney for Plaintiffs

19 Dated: 12/17/2010 **MAYALL, HURLEY, KNUTSEN, SMITH & GREEN**

20 By /s/J. Anthony Abbott  
21 J. ANTHONY ABBOTT, Attorney for Defendant  
SAN JOAQUIN DELTA COMMUNITY COLLEGE DISTRICT

22 Dated: 12/17/2010 **MASTAGNI, HOLSTEDT, AMICK, MILLER & JOHNSEN**

23 By /s/ James B. Carr  
24 JAMES B. CARR, Attorneys for Defendant JAMES WOOD

25 Dated: 12/17/2010 **THE LAW OFFICE OF MICHAEL MATTEUCCI**

26 By /s/ Michael J. Matteucci  
27 MICHAEL J. MATTEUCCI, Attorney for Defendant  
28 DANIELE RULEY

1  
2  
3 ORDER  
4


5 Good cause appearing, it is hereby ORDERED.

6

<u>ITEM</u>	<u>Old Dates</u>	<u>New Dates</u>
7 Expert Disclosure	02/28/2011	04/29/2011
Rebuttal Experts Disclosure	03/30/2011	05/27/2011
8 Discovery Cut-Off	04/29/2011	06/28/2011
Motions/ Orders	05/30/2011	07/29/2011
9 *Final Pre-Trial Conference	08/08/2011	<b>09/19/2011, 2:00 pm</b>
*Jury Trial	10/04/2011	<b>11/08/2011, 9:00 am</b>

10 \*As agreed to by counsel after conferring with the courtroom deputy.  
11  
12

13 Dated: December 21, 2010

14 

15 WILLIAM B. SHUBB  
16 UNITED STATES DISTRICT JUDGE  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28