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10 Attorneys for *Plaintiff*

11 **IN THE UNITED STATES DISTRICT COURT**
 12 **EASTERN DISTRICT OF CALIFORNIA**

13 KEVIN POPPEN,

14 Plaintiff,

15 vs.

16 LIONEL FOSTER, M.D.; TERRI
 17 WEINHOLDT; JALAL SALTANIAN-
 18 NEDEH-IV, S. HEATLEY, T.
 19 KIMURA-YIP; and K. McLEAN,
 20 In Their Individual Capacities,

21 Defendants.

CASE NO.: 2:10-cv-00568-KJM-JFM

22 **AMENDED STIPULATED REQUEST FOR**
 23 **RELIEF FROM SCHEDULING ORDER AND**
 24 **SCHEDULING ORDER**

25 Complaint Filed: March 10, 2010
 26 Trial Date: None Set

27 Assigned to Judge Kimberly J. Mueller

28 Plaintiff Kevin Poppen and the above-named Defendants hereby ask the Court to continue the deadlines currently contained in the Court's May 25, 2011 scheduling order such that the fact discovery cut-off will be moved to April 1, 2012, and the deadline for dispositive motions will be moved to June 1, 2012.¹ No previous extensions have been granted.

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31 ¹ The Court's May 31, 2011 Discovery and Scheduling Order is apparently based upon a standard order for cases filed by prisoners appearing *pro per*, as this case had proceeded until Plaintiff's current attorneys were appointed counsel for Plaintiff through the Northern District of California's Pro Bono Program.

1 The parties make this request on the following grounds: **First**, Defendant Lionel Foster
2 was only recently served and by agreement of the Parties his answer is due on July 20, 2011.
3 **Second**, because Plaintiff is now represented by counsel, a more comprehensive scheduling order
4 may be more appropriate than the standard order used for prisoner cases. **Third**, counsel for
5 Defendants has a busy trial schedule for the rest of the year, as follows:

- 6 • *Sallie v. County of Sacramento*, CASE NO.34-2008-00014747-CU-OE-GDS,
7 October 25, 2011 (4-6 week trial in the Superior Court of Sacramento County)
- 8 • *Kirbyson v. Tesoro, et al.*, CASE NO. 09-03990 SC,
9 December 5, 2011 (7-10 day trial in the Northern District of California)
- 10 • *Taylor v. CDCR, et al.*, CASE NO. 2:09-cv-00024 JAM,
11 December 5, 2011, (4-5 day trial in the Eastern District of California)

12 **Fourth**, and most importantly, given enough time to conduct them, the Parties believe that this
13 case could be resolved through settlement negotiations in the next few months, without any
14 further action by the Court.

15 Accordingly, the parties propose the following new case schedule:

16 Non-Expert Discovery Deadline:	April 1, 2012
17 Dispositive Motion Filing Deadline:	June 1, 2012
18 Expert Disclosures:	Per F.R.Civ.P. 26
19 Final Pretrial Conference:	August 2012
20 Trial:	September 2012

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Dated: August 4, 2011

Respectfully submitted,

By: /s/ C. Brooks Cutter
C. Brooks Cutter
KERSHAW, CUTTER & RATINOFF, LLP
Attorneys for Plaintiff

By: /s/ Shanan L. Hewitt
SHANAN HEWITT
Attorney for Defendants

IT IS SO ORDERED.

Dated: August 4, 2011.

/s/ John F. Moulds
John F. Moulds
U.S. Magistrate Judge