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10 **IN THE UNITED STATES DISTRICT COURT**  
11 **FOR THE EASTERN DISTRICT OF CALIFORNIA**  
12 **SACRAMENTO DIVISION**

13

14 DANNY MURPHY COSTON,  
15 Plaintiff,  
16 v.  
17 ANDREW NANGALAMA, et al.,  
18 Defendants.

Case No. 2:10-cv-02009-MCE-EFB

**STIPULATION AND ORDER TO  
EXTEND DISCOVERY DEADLINE**

*[Declaration of Eric Wolff filed  
concurrently herewith]*

Judge: Hon. Morrison C. England, Jr.  
Courtroom: 7

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1 SUBJECT TO THE APPROVAL OF THE COURT, Plaintiff Danny Murphy Coston and  
2 Defendant Andrew Nangalama (“Dr. Nangalama”), through their counsel, jointly submit the following  
3 Stipulation and Proposed Order for an extension of the discovery cut-off due to delays in the production  
4 of documents by California State Prison – Sacramento (“CSP-Sac”) which has impacted further  
5 discovery and depositions.

6 **RECITALS**

7 WHEREAS, by the Order reopening discovery for 120 days from the date the Order was  
8 electronically filed, October 17, 2022, (ECF No. 226), the close of discovery was set for February 14,  
9 2023;

10 WHEREAS, Mr. Coston promptly prepared and served requests for production on Defendants  
11 Andrew Nangalama and Randall Hale<sup>1</sup> on November 3, 2022 (“Document Requests”);

12 WHEREAS, Mr. Coston also personally served CSP-Sac with a Subpoena Duces Tecum (the  
13 “First Subpoena”) on November 15, 2022 and specified a return date of December 6, 2022;

14 WHEREAS, Mr. Coston received Defendants’ responses to the Document Requests on or about  
15 December 13, 2022, in which Defendants indicated that they do not have many of the requested  
16 documents, and Defendants are also seeking documents from CSP-Sac;

17 WHEREAS, CSP-Sac did not respond to Mr. Coston’s First Subpoena by the deadline;

18 WHEREAS, Mr. Coston’s counsel emailed CSP-Sac on December 7, 2022, to inquire about the  
19 status of its response to the First Subpoena;

20 WHEREAS, between December 7 and December 14, 2022, Mr. Coston’s counsel exchanged  
21 emails with CSP-Sac regarding its offer to obtain the documents requested in the First Subpoena;

22 WHEREAS, on December 14, 2022, counsel for Defendants instructed Mr. Coston’s counsel  
23 that all correspondence directed to CSP-Sac should be directed to counsel for Defendants;

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25 \_\_\_\_\_  
26 <sup>1</sup> Randall Hale is currently unrepresented in this proceeding. The Court granted counsel’s motion to  
27 withdraw from the representation of Mr. Hale and ordered him to file a status report with the court by  
28 thirty days after proof of service of the order on Mr. Hale was filed (ECF No. 232). Withdrawal was  
effective on January 3, 2023 when the proof of service of the Order on Mr. Hale was filed. (See ECF  
No. 235). Mr. Hale has not filed a status report, and, as described in the Parties’ motion to extend  
discovery deadline, appears not to be participating in the litigation. (See ECF No. 236 at 5).

1 WHEREAS, counsel for Mr. Coston and counsel for Defendants met and conferred regarding  
2 CSP-Sac’s response to the First Subpoena on December 16, 2022;

3 WHEREAS, based on the Parties’ stipulation to extend discovery due to CSP-Sac’s delay in  
4 responding to Mr. Coston’s First Subpoena, this Court ordered discovery be extended 45 days to Friday,  
5 March 31, 2023 (ECF No. 234);

6 WHEREAS, on December 30, 2023, the California Department of Corrections and  
7 Rehabilitation (“CDCR”) provided copies of various CDCR policy documents noting that additional  
8 documents would be provided by CSP-Sac;

9 WHEREAS, the documents provided by CDCR made reference to records of which counsel for  
10 Mr. Coston was not previously aware;

11 WHEREAS, on January 25, 2023, counsel for Mr. Coston received a compact disc from CSP-  
12 Sac containing Mr. Coston’s medical records, some of which were unreadable, and CSP-Sac  
13 acknowledged that these files did not complete its production in response to the First Subpoena;

14 WHEREAS, on January 30, 2023, counsel for Mr. Coston served a second Subpoena Duces  
15 Tecum (the “Second Subpoena”) on CSP-Sac seeking the records referenced in the documents provided  
16 by CDCR and listing a response date of February 20, 2023;

17 WHEREAS, on February 6, 2023, the Mr. Coston and Dr. Nangalama jointly moved to extend  
18 discovery because CSP-Sac had not yet completed its production of documents in response to the First  
19 Subpoena (ECF No. 236);

20 WHEREAS, on February 9, 2023, after construing the joint motion as a stipulation, the Court  
21 extended the discovery deadline 60 days to May 30, 2023 (ECF Nos. 237, 238);

22 WHEREAS, CSP-Sac did not respond to the Second Subpoena by the deadline;

23 WHEREAS, counsel for Mr. Coston and Dr. Nangalama met and conferred on Tuesday,  
24 February 21, 2023 and Friday, March 17 to discuss the progress of CSP-Sac’s response to the First and  
25 Second Subpoenas;

26 WHEREAS, on Sunday, March 26, 2023, counsel for Dr. Nangalama informed counsel for Mr.  
27 Coston that a production in response to the Subpoenas was forthcoming;

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1 WHEREAS, on Tuesday, March 28, 2023, a paralegal supporting counsel for Dr. Nangalama  
2 informed counsel for Mr. Coston that the forthcoming production consisted of approximately 5,000  
3 documents from North Kern State Prison, where Mr. Coston is currently housed, and that the  
4 documents would be produced once the paralegal completed redaction of protected personal  
5 information in the documents, which was then in progress;

6 WHEREAS, counsel for Dr. Nangalama and Mr. Coston expect that the documents from North  
7 Kern State Prison will be produced in the coming days;

8 WHEREAS, CSP-Sac's delay in producing additional documents since Mr. Coston and Dr.  
9 Nangalama jointly moved to extend discovery on February 6, 2023, has consumed nearly all of the 60-  
10 day extension of discovery ordered by the Court on February 9, 2023;

11 WHEREAS, counsel for both Mr. Coston and Dr. Nangalama need CSP-Sac's responses to the  
12 document requests in the First Subpoena in order to effectively conduct depositions of Defendants and  
13 non-party witnesses;

14 WHEREAS, the Parties need additional time to prepare for and conduct depositions given CSP-  
15 Sac's ongoing delay in producing documents in response to the Subpoenas; and

16 WHEREAS, a trial date has not been set in this case, so extending the discovery deadline would  
17 not affect the schedule in this case except to require an adjustment to the date by which the Parties are  
18 to file a Joint Status Report.

19 **STIPULATION**

20 NOW, THEREFORE, the Parties hereby agree as follows subject to the Court's approval:

21 The parties agree to extend the close of discovery by 90 days to Monday, August 28, 2023.

22 **SO STIPULATED.**

23 Dated: April 17, 2023

JENNER & BLOCK LLP

24 /s/ Julie A. Shepard

25 Julie A. Shepard

26 Alice S. Kim

Eric Wolff

27 Attorneys for Plaintiff Danny Murphy Coston

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Dated: April 17, 2023

/s/ Amie Bears (as authorized on 4/17/2023)

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Attorneys for Defendant Andrew Nangalama

**ORDER**

Based on the above stipulation, the joint motion of the parties for an extension to the close of discovery is granted. The Order reopening discovery (ECF No. 226) is amended to extend the close of discovery by 90 days to Monday, August 28, 2023. The Parties are further ordered to file a Joint Status Report not later than 30 days after the close of discovery.

IT IS SO ORDERED.

Dated: April 19, 2023



MORRISON C. ENGLAND, JR.  
SENIOR UNITED STATES DISTRICT JUDGE