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

DANNY MURPHY COSTON,
 Plaintiff,
 v.
 ANDREW NANGALAMA, et al.,
 Defendants.

Case No. 2:10-cv-02009-MCE-EFB
**STIPULATION AND ~~PROPOSED~~
 ORDER RE CALIFORNIA STATE
 PRISON – SACRAMENTO’S
 RESPONSE TO PLAINTIFF’S
 SUBPOENAS**
*[Declaration of Eric Wolff filed
 concurrently herewith]*
 Judge: Hon. Edmund F. Brennan
 Courtroom: 8

1 SUBJECT TO THE APPROVAL OF THE COURT, Plaintiff Danny Murphy Coston (“Mr.
2 Coston”) and non-party California State Prison – Sacramento (“CSP-Sac,” together with Mr. Coston,
3 “the Parties”), through their counsel, in order to resolve Mr. Coston’s pending Motion to Compel
4 Discovery from CSP-Sac (ECF No. 247), jointly submit the following Stipulation and Proposed Order
5 regarding CSP-Sac’s responses to Mr. Coston’s two subpoenas served on CSP-Sac on November 15,
6 2022 and January 30, 2023.

7 **RECITALS**

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

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

11 WHEREAS, on January 30, 2023, counsel for Mr. Coston served a second Subpoena Duces
12 Tecum (the “Second Subpoena,” together with the First Subpoena, “the Subpoenas”) on CSP-Sac and
13 specified a return date of February 20, 2023;

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

15 WHEREAS, from December 2022 through June 2023, the Parties met and conferred
16 extensively regarding CSP-Sac’s responses to the Subpoenas;

17 WHEREAS, during the period of December 2022 through June 2023, CSP-Sac represented to
18 counsel for Mr. Coston that it experienced staff shortages, a backlog of requests, and technical issues
19 that contributed to the delays in its production in response to the Subpoenas;

20 WHEREAS, on June 14, 2023, CSP-Sac represented that it had completed its production in
21 response to both Subpoenas as of June 13, 2023;

22 WHEREAS, on July 27, 2023, Mr. Coston filed a Motion to Compel Discovery from Non-Party
23 California State Prison – Sacramento (the “Motion”) due to CSP-Sac’s failure to conduct a diligent
24 search and produce all documents responsive to the Subpoenas, and noticed the hearing for August 23,
25 2023 (ECF No. 247);

26 WHEREAS, on July 27, 2023, the same day the Motion was filed, Mr. Coston’s counsel sent
27 CSP-Sac’s counsel a draft Joint Statement of Discovery Disagreement (“Joint Statement”) detailing
28

1 the facts relevant to the Motion, the Parties' efforts to meet and confer, and Mr. Coston's positions
2 regarding the deficiencies in CSP-Sac's production in response to each request of the Subpoenas;

3 WHEREAS, on August 8, 2023, CSP-Sac proposed this stipulation as a resolution to the
4 Motion.

5 **STIPULATION**

6 NOW, THEREFORE, the Parties hereby respectfully ask this Court to enter the following
7 Orders:

8 1. CSP-Sac shall conduct a diligent search for documents responsive to the requests of
9 both Subpoenas and complete its production of those documents by August 23, 2023.

10 2. CSP-Sac shall prepare a declaration similar to the one ordered in *Scruggs v. Vance*, 2011
11 WL 6368297, at *13 (E.D. Cal. Dec. 19, 2011) detailing the following for each request of the
12 Subpoenas: (1) CSP-Sac's efforts to find documents responsive to the request, (2) any document
13 retention policy that affected CSP-Sac's ability to produce documents responsive to the request, (3)
14 any litigation hold that was placed on any of the documents requested, and (4) list any requested
15 documents that were destroyed, when the destruction occurred, and append a copy of the document
16 retention policy governing the destruction, and shall serve this declaration on Mr. Coston by August
17 25, 2023.

18 3. Mr. Coston's Motion to Compel (ECF No. 247) is deemed WITHDRAWN and the
19 August 23, 2023 hearing date is VACATED.

20 **SO STIPULATED.**

21 Dated: August 9, 2023

JENNER & BLOCK LLP

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23 /s/ Julie A. Shepard

Julie A. Shepard
Alice S. Kim
Eric Wolff
Tal Ratner Solovey

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25 Attorneys for Plaintiff Danny Murphy Coston

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1 Dated: August 9, 2023

3 /s/ Amie Bears (as authorized on 8/9/2023)

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12 Attorneys for Non-Party California State Prison –
13 Sacramento

14 Attorneys for Defendant Andrew Nangalama

15 **~~PROPOSED~~ ORDER**

16 Based on the above stipulation, IT IS HEREBY ORDERED that:

17 1. CSP-Sac shall conduct a diligent search for documents responsive to the requests of
18 both Subpoenas and complete its production of those documents by August 23, 2023.

19 2. CSP-Sac shall prepare a declaration similar to the one ordered in *Scruggs v. Vance*, 2011
20 WL 6368297, at *13 (E.D. Cal. Dec. 19, 2011) detailing the following for each request of the
21 Subpoenas: (1) CSP-Sac’s efforts to find documents responsive to the request, (2) any document
22 retention policy that affected CSP-Sac’s ability to produce documents responsive to the request, (3)
23 any litigation hold that was placed on any of the documents requested, and (4) list any requested
24 documents that were destroyed, when the destruction occurred, and append a copy of the document
25 retention policy governing the destruction, and shall serve this declaration on Mr. Coston by August
26 25, 2023.

27 3. Mr. Coston’s Motion to Compel (ECF No. 247) is deemed WITHDRAWN and the
28 August 23, 2023, hearing date is VACATED.

DATED: August 18, 2023.


EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE