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

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

1 SUBJECT TO THE APPROVAL OF THE COURT, Plaintiff Danny Murphy Coston (“Mr.  
2 Coston”) and Defendant Andrew Nangalama (“Dr. Nangalama,” together, the “Parties”), through  
3 their counsel, jointly submit the following Stipulation and Proposed Order for an extension of the  
4 discovery cut-off due to the need to reschedule depositions and to allow for California State Prison  
5 – Sacramento (“CSP-Sac”) and Mr. Coston to litigate, and thereafter for this Court to adjudicate,  
6 Mr. Coston’s pending Motion to Compel CSP-Sac to comply with the Court’s August 18, 2023  
7 Order (ECF No. 255) (the “Second Motion to Compel”), which Mr. Coston has agreed to withdraw  
8 and refile at a later date to accommodate counsel for Dr. Nangalama and CSP-Sac, as described  
9 below.

### 10 RECITALS

11 WHEREAS, by the Order reopening discovery for 120 days from the date the Order was  
12 electronically filed, October 17, 2022, (ECF No. 226), the close of discovery was set for February  
13 14, 2023;

14 WHEREAS, Mr. Coston promptly prepared and served written discovery on Defendants  
15 Dr. Nangalama and Randall Hale<sup>1</sup> (together, “Defendants”), serving requests for production on  
16 November 3, 2022, and serving requests for admission and interrogatories on December 13, 2022;

17 WHEREAS, Mr. Coston personally served non-party CSP-Sac with Subpoenas Duces  
18 Tecum on November 15, 2022 and January 30, 2023 (the “Subpoenas”);

19 WHEREAS, CSP-Sac did not respond to either of the Subpoenas by their respective  
20 deadlines;

21 WHEREAS, during the period of December 2022 through June 2023, CSP-Sac represented  
22 that it was experiencing staff shortages, a backlog of requests, and technical issues that contributed  
23 to its delays in responding to the Subpoenas;

24 \_\_\_\_\_  
25 <sup>1</sup> Randall Hale is currently unrepresented in this proceeding. The Court granted counsel’s motion  
26 to withdraw from the representation of Mr. Hale and ordered him to file a status report with the  
27 court by thirty days after proof of service of the order on Mr. Hale was filed (ECF No. 232).  
28 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, due to the delays in CSP-Sac’s production, on December 27, February 9, and  
2 April 20, 2023, this Court granted the Parties’ prior stipulations to extend discovery, ultimately  
3 extending the close of discovery to August 28, 2023 (ECF Nos. 234, 238, 240);

4           WHEREAS, on July 11 and 14, 2023, Mr. Coston noticed the depositions of Defendants  
5 and served deposition subpoenas on seven non-party witnesses scheduling their depositions for  
6 various dates in mid-July and August and before the close of discovery on August 28, 2023;

7           WHEREAS, counsel for Dr. Nangalama requested to reschedule all of the depositions,  
8 except for Dr. Nangalama’s deposition;

9           WHEREAS, on July 27, 2023, Mr. Coston filed his first Motion to Compel CSP-Sac to  
10 conduct a diligent search for, and produce, all documents responsive to the Subpoenas and serve a  
11 declaration on Mr. Coston detailing its efforts to find responsive documents and related  
12 information (ECF No. 247) (the “First Motion to Compel”);

13           WHEREAS, CSP-Sac and Mr. Coston resolved the First Motion to Compel by entering a  
14 Court-ordered stipulation to the relief Mr. Coston sought in the First Motion to Compel, namely  
15 that CSP-Sac would conduct a diligent search for all documents responsive to the Subpoenas and  
16 produce those documents by August 23, 2023, and serve a declaration on Mr. Coston detailing its  
17 search efforts and related information by August 25, 2023 (the “Stipulation re CSP-Sac’s Response  
18 to Plaintiff’s Subpoenas”) (ECF No. 248);

19           WHEREAS, this Court granted the Stipulation re CSP-Sac’s Response to Plaintiff’s  
20 Subpoenas (ECF No. 251);

21           WHEREAS, the Parties stipulated and asked the Court to extend the close of discovery to  
22 allow the Parties enough time to prepare for, reschedule, and conduct depositions after the date  
23 CSP-Sac was ordered to complete its document production and provide a declaration detailing its  
24 efforts to find responsive documents (ECF No. 249);

25           WHEREAS, on August 23, 2023, CSP-Sac served written responses referring to  
26 documents it had already produced prior to the filing of Mr. Coston’s First Motion to Compel and  
27 represented in these written responses that its search for documents responsive to the subpoena  
28

1 Mr. Coston served on January 30, 2023 was still ongoing despite the deadline for production being  
2 August 23, 2023;

3 WHEREAS, this Court granted the Parties' stipulation to extend the close of discovery,  
4 and extended the close of discovery to October 27, 2023 (ECF No. 250);

5 WHEREAS, CSP-Sac requested an additional two weeks to provide the declaration  
6 detailing CSP-Sac's efforts to find responsive documents (ECF No. 252);

7 WHEREAS, the Court granted CSP-Sac's request for additional time to produce the  
8 declaration and ordered the declaration detailing CSP-Sac's efforts to find responsive documents  
9 be due September 11, 2023 (ECF No. 254);

10 WHEREAS, since then, counsel has diligently moved the case forward and taken six  
11 depositions between September 8, 2023 and October 6, 2023, and attempted to take a seventh  
12 deposition on September 27, 2023, but on the day of the deposition the witness became unable to  
13 attend;

14 WHEREAS, on October 11, 2023 Mr. Coston filed a Motion to Compel CSP-Sac to comply  
15 with the Court's August 18, 2023 Order compelling it to diligently search for, and produce, all  
16 documents responsive to Mr. Coston's subpoenas to the prison and provide a declaration detailing  
17 its search efforts (ECF No. 255);

18 WHEREAS, three depositions that were subpoenaed in July 2023 have not yet taken place  
19 and cannot be completed prior to the current close of discovery on October 27, 2023, despite  
20 counsel's diligent efforts because:

- 21 i) Mr. Coston cannot effectively or efficiently conduct non-party CSP-Sac's Fed. R. Civ.  
22 P. 30(b)(6) deposition until the Parties' have resolved their dispute regarding CSP-  
23 Sac's production, this dispute is the subject of Mr. Coston's pending Second Motion to  
24 Compel CSP-Sac (ECF No. 255);
- 25 ii) a non-party witness became unavailable on the day of their deposition scheduled  
26 before the close of discovery and there is not sufficient time to schedule it before the  
27 current close of discovery; and



1 Dated: October 18, 2023

JENNER & BLOCK LLP

2  
3  
4 By: /s/ Julie A. Shepard

5 Julie A. Shepard  
6 Alice S. Kim  
7 Eric Wolff  
8 Tal Ratner Solovey

Attorneys for Plaintiff Danny Murphy Coston

9 Dated: October 17, 2023

10 /s/ Amie Bears (authorized on 10/17/23)

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Attorneys for Defendant Andrew Nangalama

Attorneys for Non-Party California State Prison –  
Sacramento

1 **ORDER**

2 Based on the above stipulation, the joint motion of the parties for an extension of the  
3 close of discovery is granted. The Order reopening discovery (ECF No. 226) is amended to  
4 extend the close of discovery by 150 days to Monday, March 25, 2024. The Parties are further  
5 ordered to file a Joint Status Report not later than 30 days after the close of discovery.

6 IT IS SO ORDERED.

7 Dated: October 20, 2023

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9 \_\_\_\_\_  
10 MORRISON C. ENGLAND, JR.  
11 SENIOR UNITED STATES DISTRICT JUDGE  
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