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 8 IN THE UNITED STATES DISTRICT COURT
 9 EASTERN DISTRICT OF CALIFORNIA
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11 JOSEPH HELM,

12 Plaintiff,

13 v.

14 UNITED STATES OF AMERICA,

15 Defendant.
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Case No. 2:11-cv-01703 MCE EFB

**STIPULATION REQUESTING
 MODIFICATION OF SCHEDULING
 ORDER**

17 The parties to this action, by and through their undersigned counsel, hereby stipulate and agree
 18 as follows:

19 1. On December 20, 2012, the Court entered its Status (Pretrial Scheduling)
 20 Order. Docket 28. The Court set the following deadlines for this case:

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|----|---|--------------------|
| 21 | Discovery Cutoff | June 21, 2013 |
| | Expert Witness Disclosure | August 21, 2013 |
| 22 | Supplemental Expert Witness Disclosure | September 10, 2013 |
| | Dispositive Motions Heard By | December 19, 2013 |
| 23 | Joint Pretrial Conference Statement Due | February 13, 2014 |
| | Evidentiary/Procedural Motions Due | February 13, 2014 |
| 24 | Oppositions to Evidentiary/Procedural Due | February 20, 2014 |
| | Replies to Evidentiary/Procedural Due | February 27, 2014 |
| 25 | Final Pretrial Conference | March 6, 2014 |
| | Trial Briefs Due | February 13, 2014 |
| 26 | Trial | April 21, 2014 |

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2. This case involves allegations by plaintiff that Jay Negus, a former United States Postal Service employee, who was acting in the course and scope of his federal employment at the time of the incident, caused an auto accident that injured plaintiff.

3. Criminal charges against Negus are pending in San Joaquin Superior Court. The trial date has been moved a number of times, most recently, from May 10, 2013 to August 2, 2013. Negus' attorneys have stated that they would not make Negus available for deposition in this civil action until his criminal matter has concluded and that, if Negus is subpoenaed to testify at deposition, they will instruct him to assert his Fifth Amendment privilege against self-incrimination in response to questions concerning the auto accident.

4. Under the circumstances, it is not possible for Negus to give meaningful testimony at a deposition in this civil action prior to the current June 21, 2013 discovery cutoff, and the parties believe that good cause exists for the Court to modify its scheduling order so that Negus may be deposed after the criminal matter has concluded.

5. Accordingly, the parties respectfully request that the Court modify the scheduling order to extend the discovery cutoff date from June 21, 2013 to September 27, 2013.

6. Since the parties are not asking the Court to change any of the other dates at this time, modification of the scheduling order will not prejudice any party, and should not negatively impact the Court's schedule for this case. However, if the Negus trial is rescheduled again, it may be necessary for the parties to seek further modification of the scheduling order.

DATED: May 22, 2013

By: BENJAMIN B. WAGNER
United States Attorney
/s/ Lynn Trinka Ernce
LYNN TRINKA ERNCE
Assistant United States Attorney


1 DATED: May 22, 2013

By: /s/ Russell A. Robinson
Russell A. Robinson
Attorney for Plaintiff

3 **ORDER**

4 IT IS SO ORDERED.

5 Dated: May 30, 2013

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8 MORRISON C. ENGLAND, JR., CHIEF JUDGE
9 UNITED STATES DISTRICT COURT
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