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14 IN THE UNITED STATES DISTRICT COURT
 15 FOR THE EASTERN DISTRICT OF CALIFORNIA

17 **SYED MOHSIN,**

18 Plaintiff,

19 v.

21 **CALIFORNIA DEPARTMENT OF**
WATER RESOURCES, DAVID
 22 **GUTIERREZ, in his personal and official**
capacity as Chief of Division of Safety of
 23 **Dams, and DOES 1-10,**

24 Defendants.

Case No. 2:13-cv-01236-TLN-EFB

STIPULATION AND ORDER FOR
SECOND AMENDMENT TO MAY 31,
2019 PRE-TRIAL SCHEDULING
ORDER RE DISPOSITIVE MOTIONS

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1 THE PARTIES, BY AND THROUGH THEIR RESPECTIVE COUNSEL OF RECORD,
2 STIPULATE TO THE FOLLOWING:

3 1. On May 31, 2019, the Court issued an Amended Pretrial Scheduling Order providing
4 that “[a]ll dispositive motions, except motions for continuances, temporary restraining orders or
5 other emergency applications, shall be heard no later than December 19, 2019.” (ECF 111, 4:10-
6 12.) The Amended Pretrial Scheduling Order also provides: “The Court places a page limit for
7 points and authorities (exclusive of exhibits and other supporting documentation) of twenty (20)
8 pages on all initial moving papers, twenty (20) pages on oppositions, and ten (10) pages for
9 replies. All requests for page limit increases must be made in writing to the Court setting forth
10 any and all reasons for any increase in page limit at least fourteen (14) days prior to the filing of
11 the motion.” (ECF 111, 5:3-9.)

12 2. On October 11, 2019, the Court modified the Amended Pretrial Scheduling Order
13 pursuant to the stipulation and request of the parties. (ECF 120, 121.) Pursuant to this
14 modification, the hearing date for dispositive motions was extended from December 19, 2019 to
15 April 2, 2020. (ECF 121.)

16 3. On February 19, 2019, the Court granted Plaintiff’s February 18, 2019 request to
17 substitute in Fredric Fletcher as his attorney of record in place of his former counsel of record,
18 Barbara E. Ransom, Yvette C. Sterling, and Marianne Malveaux. (ECF 126, 127.)

19 4. On or around February 19, 2019, Plaintiff’s new counsel, Mr. Fletcher, was advised by
20 Deputy Attorney General Julie L. Harlan, counsel for the Defendant Department of Water
21 Resources (DWR) and Defendant David Gutierrez, of the Defendants’ intention to file a motion
22 for summary judgment, or in the alternative, motions for summary adjudication in this matter.

23 5. The twenty-nine page Second Amended Complaint (SAC) asserts violations of: 1)
24 retaliation and discrimination in violation of the Americans with Disabilities Act (42 U.S.C. §§
25 12101, *et seq.*) against Defendant Gutierrez only; 2) Section 504 of the Rehabilitation Act (29
26 U.S.C. § 794) against Defendant DWR only; 3) violation of federal Equal Protection and Due
27 Process rights pursuant to the Fourteenth Amendment of the U.S. Constitution and 42 U.S.C. §
28 1983 against Defendant Gutierrez only; 4) mental and physical disability discrimination in

1 violation of Section 12940(a) of the California Fair Employment and Housing Act (FEHA) (Cal.
2 Govt. Code § 12940, *et seq.*) against Defendant DWR only; 5) FEHA-based failure to engage in
3 the interactive process for a disability (Cal. Govt. Code, § 12940(n)) against Defendant DWR
4 only; 6) FEHA-based failure to provide reasonable accommodation(s) for a disability (Cal. Govt.
5 Code, § 12940(m)) against Defendant DWR only; and 7) FEHA-based harassment (Cal. Govt.
6 Code, § 12940(j)) against both Defendants. Plaintiff's claims involve complex issues with
7 respect to potential accommodations to Plaintiff's water engineer position and other DWR
8 positions due Plaintiff's cognitive impairment caused by his epilepsy and/or brain surgery. As
9 alleged in the SAC, the nature of Plaintiff's disabilities changed over the twelve years he worked
10 for the DWR. In addition, the parties spent three years engaging in the interactive process trying
11 to resolve these issues.

12 6. Good cause exists for extending the deadline for the Court to hear dispositive motions.
13 As of February 24, 2020, Plaintiff's new counsel, Mr. Fletcher, had yet to receive Plaintiff's
14 client files from his former counsel. Further, this action has been pending for approximately
15 seven (7) years and involve a twelve (12) year relevant time period; therefore, the client files will
16 likely be voluminous. Plaintiff's new counsel requires additional time to obtain and review
17 Plaintiff's client files to be able to prepare an appropriate response to the Defendants' motions for
18 summary judgment/adjudication. Therefore, the parties have stipulated and agreed to request that
19 the Court extend the hearing date for dispositive motions to June 25, 2020. Counsel for
20 Defendants has confirmed from the Court's website at
21 <http://www.caed.uscourts.gov/caednew/index.cfm/judges/all-judges/50201/> that the Court is
22 currently available to hear dispositive motions in this case on June 25, 2020.

23 7. Good cause further exists for extending the page limit for the memoranda filed in
24 connection with Defendants' motion for summary judgment/adjudication. Defendants intend to
25 file a single, consolidated motion due to some overlapping issues and facts. However, Defendants
26 cannot adequately present their arguments and evidence supporting summary
27 judgment/adjudication against the SAC within the twenty (20) page limit imposed by the
28 Amended Pretrial Scheduling Order. Therefore, the parties have further stipulated and agreed to

1 request that the Court extend the page limit for the opening and opposition briefs for Defendants’
2 motion for summary judgment/adjudication to no more than forty (40) pages each, and for the
3 reply brief to no more than twenty (20) pages.

4 FOR THE FOREGOING REASONS, THE PARTIES REQUEST THAT THE COURT,
5 FOR GOOD CAUSE, AMEND THE MAY 31, 2019 AMENDED PRETRIAL SCHEDULING
6 ORDER AS FOLLOWS:

7 “All dispositive motions, except motions for continuances, temporary restraining
8 orders or other emergency applications, shall be heard no later than **June 25, 2020**.
9 Any dispositive motions must be filed and served at least thirty (30) days before the
10 hearing date, but no later than **May 20, 2020**.”

11 AND:

12 “The Court places a page limit for points and authorities (exclusive of exhibits and
13 other supporting documentation) of **forty (40) pages** on all initial moving papers,
14 **forty (40) pages** on oppositions, and **twenty (20) pages** for replies. All requests for
15 page limit increases must be made in writing to the Court setting forth any and all
16 reasons for any increase in page limit at least fourteen (14) days prior to the filing of
17 the motion.”

18 **IT IS SO STIPULATED.**

19 Dated: February 26, 2020

20 Respectfully submitted,

21 XAVIER BECERRA
22 Attorney General of California
23 ANDREA R. AUSTIN
24 Supervising Deputy Attorney General

25 */s/ Julie L. Harlan*
26 JULIE L. HARLAN
27 Deputy Attorney General
28 *Attorneys for Defendants*
Department of Water Resources and David
Gutierrez

1 Dated: February 26, 2020

Respectfully submitted,

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FLETCHER LAW OFFICES

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*/s Julie L. Harlan on behalf of and with
written permission from*

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FREDRIC FLETCHER
Attorneys for Plaintiff Syed Mohsin

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ORDER

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After considering the parties’ stipulation, and finding good cause therefore, the Court hereby amends the May 31, 2019 Amended Pretrial Scheduling Order as follows:

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“All dispositive motions, except motions for continuances, temporary restraining orders or other emergency applications, shall be heard no later than **June 25, 2020**. Any dispositive motions must be filed and served at least thirty (30) days before the hearing date, but no later than **May 20, 2020**.”

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AND:

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“The Court places a page limit for points and authorities (exclusive of exhibits and other supporting documentation) of **thirty (30) pages** on all initial moving papers, **thirty (30) pages** on oppositions, and **fifteen (15) pages** for replies.

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IT IS SO ORDERED.

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Dated: February 27, 2020

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Troy L. Nunley
United States District Judge

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