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12  
13 IN THE UNITED STATES DISTRICT COURT  
14 FOR THE EASTERN DISTRICT OF CALIFORNIA  
15 SACRAMENTO DIVISION  
16

17 **JERMAINE PADILLA,**

18 Plaintiff,

19 v.

20  
21 **JEFFREY BEARD, et al.,**

22 Defendants.  
23

No. 2:14-cv-1118 KJM-CKD

**STIPULATION & ORDER TO MODIFY  
SCHEDULING ORDER**

24 Pursuant to Federal Rule of Civil Procedure 16(b)(4), Local Rule 143, and Dkt. No. 115,  
25 the parties, through their counsel of record, jointly request a modification of the December 3,  
26 2015 Scheduling Order, Dkt. No. 78, for a 45-day extension of the deadline to complete expert  
27 discovery and a 49-day extension of the deadline to hear dispositive motions.  
28

1 Currently, the expert discovery cut-off is April 29, 2016, and the last day to hear dispositive  
2 motions is June 17, 2016. The parties jointly propose that these dates be modified so that the  
3 expert discovery cut-off is June 13, 2016, and the last day to hear dispositive motions is August 5,  
4 2016. The parties submit that this modest extension should not require the alteration of any other  
5 dates in the scheduling order, including the scheduled trial date of January 9, 2017.

6 A scheduling order may be modified only upon a showing of good cause and by leave of  
7 Court. Fed. R. Civ. P. 6(b)(1)(A), 16(b)(4); *see, e.g., Johnson v. Mammoth Recreations, Inc.*, 975  
8 F.2d 604, 609 (describing the factors a court should consider in ruling on such a motion). In  
9 considering whether a party moving for a schedule modification has good cause, the Court  
10 primarily focuses on the diligence of the party seeking the modification. *Johnson*, 975 F.2d at  
11 609 (citing Fed. R. Civ. P. 16 advisory committee’s notes of 1983 amendment). “The district  
12 court may modify the pretrial schedule ‘if it cannot reasonably be met despite the diligence of the  
13 party seeking the amendment.’” *Id.* (quoting Fed. R. Civ. P. 16 advisory committee notes of 1983  
14 amendment).

15 Good cause exists to grant this stipulation because a settlement conference is scheduled  
16 before Magistrate Judge Newman on May 2, 2016, Dkt. No. 114, and, at the suggestion of the  
17 Court, the parties have mutually agreed to put off completion of expert depositions until after that  
18 date. The settlement conference was originally scheduled for April 1, 2016, with expert  
19 depositions scheduled to take place subsequently if the case did not settle, but the settlement  
20 conference was continued in order to accommodate Plaintiff’s mental health considerations. Dkt.  
21 No. 113. The parties timely disclosed expert reports on February 26, 2016, and expert  
22 depositions are the only outstanding expert discovery in this case.<sup>1</sup> The parties have already  
23 ascertained expert availability and agreed upon deposition dates that will allow them to promptly  
24 complete expert discovery by the proposed June 13, 2016 deadline if the case does not settle on  
25 May 2, 2016. The parties believe the completion of expert discovery will aid the Court in

26 <sup>1</sup> The only other outstanding discovery is the completion of Plaintiff’s deposition, which must be  
27 completed by September 30, 2016 if he is to testify at trial. Dkt. No. 98. The Court made this  
28 modification to the scheduling order in recognition of Plaintiff’s mental status that prevented him  
from completing his deposition on January 7, 2016. *Id.*

1 considering any dispositive motions, and therefore propose that the hearing date for any such  
2 motions be extended from June 17, 2016 to August 5, 2016 so that the parties can utilize expert  
3 reports and testimony.

4 The parties submit that they have diligently pursued expert discovery in this case, and seek  
5 this modest extension following the suggestion of the Court and the re-scheduling of the  
6 settlement conference. The parties have mutually agreed to postpone expert depositions until  
7 after the May 2, 2016 settlement conference in order to avoid any unnecessary costs to the parties  
8 if the case does settle.

9 The parties therefore propose the following modification to the Scheduling Order:

10 Expert Discovery Deadline June 13, 2016

11 Deadline to Hear Dispositive Motions August 5, 2016

12 The parties do not seek an extension of any other deadlines.

13 IT IS SO STIPULATED.

14  
15 Dated: April 4, 2016

Respectfully submitted,

16 KAMALA D. HARRIS  
17 Attorney General of California  
18 CHRISTOPHER J. BECKER  
Supervising Deputy Attorney General

19 */s/ Diana Esquivel*

20 DIANA ESQUIVEL  
21 Deputy Attorney General  
*Attorneys for Defendants*

22  
23 Dated: April 4, 2016

RIFKIN LAW OFFICE

24 */s/ Lori Rifkin*

25 Lori Rifkin  
26 *Attorney for Plaintiff*

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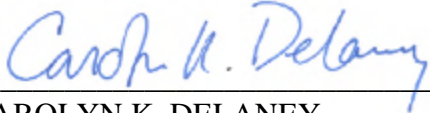
**ORDER**

Based on the parties’ stipulated request and good cause appearing:

- 1. The parties’ request to modify the scheduling order is GRANTED.
- 2. The expert discovery cut-off is re-set for June 13, 2016 and the deadline for hearing dispositive motions is re-set for August 12, 2016.<sup>2</sup>

IT IS SO ORDERED.

Dated: April 6, 2016

  
\_\_\_\_\_  
CAROLYN K. DELANEY  
UNITED STATES MAGISTRATE JUDGE

<sup>2</sup> The court has been advised that August 5, 2016 is not a date available on the District Court’s law and motion calendar. Accordingly, the date has been revised to August 12, 2016, a date which is available.