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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

TIMOTHY M. CALLISON,  
Plaintiff,

vs.

CITY OF AMERICAN CANYON, CITY OF  
VALLEJO, COUNTY OF NAPA, OFFICER  
SCHNEIDER, AND  
DOES 1 – 100, INCLUSIVE;  
Defendants.

) Case No.: 2:15-CV-00116-WBS-DB

)  
) **JOINT STIPULATION TO ALTER /**  
) **VACATE PRETRIAL SCHEDULING**  
) **ORDER; MODIFY ORDER COMPELLING**  
) **DEPOSITION OF PLAINTIFF AND**  
) **[PROPOSED] ORDER**

) Courtroom: 5 Judge William B. Shubb

) ACTION FILED: October 9, 2014  
) DATE REMOVED: January 15, 2015  
) TRIAL DATE: August 9, 2016

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IDENTIFICATION OF STIPULATING PARTIES AND THEIR RESPECTIVE COUNSEL  
APPEAR OF PAGE 2 OF THIS STIPULATION

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8 Attorney for Plaintiff Timothy M. Callison

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10 Frank Frank A. Splendorio SBN 272601  
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Attorney for Defendant California Forensic  
Medical Group (CFMG)

### **STIPULATION**

1. The parties, Plaintiff Timothy M. Callison and Defendants City of American Canyon, City of Vallejo, County of Napa and Officer Brett Schneider, and California Forensic Medical Group (CFMG) by and through their designated counsel, pursuant to Local Rule 144(a) and Federal Rule of Civil Procedure 6, hereby submit their Joint Stipulation to Alter the Pretrial Scheduling Order in this matter.

2. Subject to the Court's approval, the parties propose the Court vacate the pretrial scheduling Order filed herein March 9, 2016 (Document 25) and reschedule all of the dates contained therein, including the trial date, seven months out. This would be the second Pretrial rescheduling in this case.

3. Subject to the Court's approval, the parties propose the Court modify the Order of Magistrate Judge Deborah Barnes filed herein December 30, 2016 (Document 39), compelling Plaintiff's deposition within 35 days of Defense Counsel arranging for said deposition to take place at the Solano County Claybank Detention Facility, in Fairfield, California, and that the imposition of sanctions continue to be held in abeyance pending plaintiff's appearance at his deposition in compliance with the modified order.

1 4. The proposed vacation of the current Pre-Trial Order and scheduling of new Pretrial dates and  
2 trial is necessary and good cause exists for the requested stipulation.

3 5. The proposed modification of the Order compelling plaintiff's deposition is necessary and good  
4 cause exists for the requested stipulation.

5 6. Plaintiff 's counsel, James A. Du Charme, on December 21, 2016, filed his petition to be relieved  
6 as attorney of record for plaintiff (Documents 33 – 36). Plaintiff's counsel only learned on Friday  
7 January 20, 2017, that plaintiff is incarcerated at the Solano County Claybank Detention Facility, 2500  
8 Claybank Road, Fairfield, California, and would not be present at the hearing for the petition to  
9 withdraw scheduled for January 23, 2016. In the absence of plaintiff appearance at the hearing, the  
10 Court did not rule on the petition.

11 7. On December 20, 2016, plaintiff filed a substitution of counsel (Document 31) relieving James  
12 A. Du Charme, and appearing in pro per. Deemed insufficient, plaintiff's counsel followed this with the  
13 petition to withdraw on December 21, 2016, mentioned above. Plaintiff's counsel has represented that  
14 as recently as January 22, 2017, plaintiff has stated he does not object to counsel withdrawing, and that  
15 he will seek new representation upon his release from detention which he anticipates to be March 6 or 7,  
16 2017, following the Solano County Superior Court hearing scheduled for March 3, 2017, whereat  
17 plaintiff expects a probation report.

18 8. Plaintiff's counsel has proposed a rescheduling of the Pre-Trial Order and Trial of seven months  
19 as being a reasonable time within which plaintiff can locate new representation, if he so desires, and for  
20 that new counsel to fully acquaint himself or herself with the case. Defendants do not object to this  
21 proposed rescheduling.

22 9. Pursuant to the Order compelling plaintiff's deposition (Document 39), above, Defendant City of  
23 Vallejo, timely noticed plaintiff's deposition for January 30, 2017, to take place at the Offices of the  
24 City Attorney for Vallejo.

25 10. Plaintiff's incarceration until at least March 6 or 7 makes his attendance at the scheduled  
26 deposition on January 30, 2017, not possible.  
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1 11. Defendants do not object to rescheduling plaintiff's deposition, on the conditions 1) that the  
2 Order compelling the deposition of plaintiff is modified to allow the same and 2) provided that  
3 plaintiff's deposition is taken during the time plaintiff remains incarcerated at the Solano County  
4 Claybank Detention Facility, otherwise the sanctions shall be imposed.

5 12. This is a civil rights matter (allegations of excessive force), with a denial of medical care and  
6 personal injury components, it has numerous witnesses, including medical providers.

7 13. Counsel for plaintiff has requested he be relieved as attorney of record and plaintiff does not  
8 object. Plaintiff has indicated he intends to seek new representation upon his release from detention.  
9 Additional time will be need to locate new counsel, for that counsel to become familiar with the case  
10 and for the completion of discovery before trial.

11 14. The parties are agreed plaintiff's deposition should go forward while plaintiff is in detention, as  
12 soon as arrangements can be made with the authorities at the detention facility.

13 15. Therefore, the parties respectfully submit good cause exists to vacate the pretrial scheduling  
14 Order filed herein March 9, 2016 (Document 25) and reschedule all of the dates contained therein,  
15 including the trial date, seven months out; and

16 16. Modify the Order of Magistrate Judge Deborah Barnes filed herein December 30, 2016  
17 (Document 39), compelling Plaintiff's deposition within 35 days of Defense Counsel arranging for said  
18 deposition to take place at the Solano County Claybank Detention Facility, in Fairfield, California, and  
19 that the imposition of sanctions continue to be held in abeyance pending plaintiff's appearance at his  
20 deposition in compliance with the modified order.

21 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.  
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1 Respectfully submitted,  
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4 DATED: February 3, 2017

/s/ Frank A. Splendorio  
FRANK A. SPLENDORIO  
Deputy City Attorney  
Attorney for Defendant,  
CITY OF VALLEJO

8  
9 DATED: February 3, 2017

/s/ James A. Du Charme  
JAMES A. DU CHARME  
DU CHARME & COHEN  
Attorney for Plaintiff,  
TIMOTHY M. CALLISON

12  
13 DATED: February 3, 2017

/s/ Dale L. Allen  
DALE L. ALLEN  
ALLEN, GLAESSNER, HAZELWOOD & WERTH  
Attorney for Defendants,  
COUNTY OF NAPA, CITY OF AMERICAN  
CANYON AND OFFICER SCHNEIDER

17  
18 DATED: February 3, 2017

/s/ Jerome M. Varanini  
JEROME M. VARANINI  
LAW OFFICES OF JEROME M. VARANINI  
Attorney for Defendant  
CALIFORNIA FORENSIC MEDICAL GROUP

21 I hereby attest / certify that I have been authorized by the above named counsel, Dale L. Allen,  
22 Frank A. Splendorio and Jerome M. Varanini, to file this **JOINT STIPULATION TO ALTER /**  
23 **VACATE PRETRIAL SCHEDULING ORDER; MODIFY ORDER COMPELLING**  
24 **DEPOSITION OF PLAINTIFF AND [PROPOSED] ORDER.**

25 Executed on this February 3, 2017, at Vallejo, California.

26 \_\_\_s/ James A. Du Charme\_\_\_  
James A. Du Charme  
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1 PURSUANT TO STIPULATION, IT IS SO ORDERED:  
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3 The pretrial scheduling order filed March 9, 2016 (Document 25) is **modified** as follows:  
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- 5 1. Plaintiff may file an amended complaint adding additional defendants by no later than  
6 October 23, 2017.
- 7 2. All discovery, including depositions for preservation of testimony shall be completed by  
8 November 27, 2017.
- 9 3. The parties shall disclose experts and produce reports in accordance with FRCP 26(a)(2) by  
10 September 25, 2017.
- 11 4. With regard to expert testimony intended solely for rebuttal, those experts shall be disclosed  
12 and reports produced by October 24, 2017.
- 13 5. All motions to compel discovery must be noticed on the magistrate judge's calendar by  
14 November 27, 2017.
- 15 6. Dispositive Motions filed by January 26, 2018.
- 16 7. The **Final Pretrial Conference is set for April 9, 2018 at 01:30 PM** in Courtroom 5 (WBS)  
17 before Senior Judge William B. Shubb.
- 18 8. The **Jury Trial is set for June 12, 2018 at 09:00 AM** in Courtroom 5 (WBS) before Senior  
19 Judge William B. Shubb.
- 20 9. The parties shall comply with the pretrial order filed March 9, 2016 (Document 25) for all  
21 further details.

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1 The Order of Magistrate Judge Deborah Barnes filed herein December 30, 2016 (Document 39),  
2 is modified to read: Plaintiff's deposition shall be taken within 35 days of Defense Counsel arranging  
3 for said deposition to take place at the Solano County Claybank Detention Facility, in Fairfield,  
4 California, and that the imposition of sanctions continue to be held in abeyance pending plaintiff's  
5 appearance at his deposition in compliance with this modified order.  
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7  
8 Dated: February 9, 2017

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10 WILLIAM B. SHUBB  
11 UNITED STATES DISTRICT JUDGE  
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