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UNITED STATES DISTRICT COURT  
 EASTERN DISTRICT OF CALIFORNIA, SACRAMENTO DIVISION

17 Nathaniel Smith,  
 18 Plaintiff,  
 19 v.  
 20 City of Stockton; Officer Mayer, Officer  
 21 Robin Harrison, Officer Michael Perez,  
 and former Chief of Police Blair Ullring, in  
 22 their individual capacities; and Chief of  
 Police Eric Jones, in his official capacity,  
 23 Defendants.

Case No. 2:15-cv-00363-KJM-AC

**STIPULATED REQUEST AND  
 ORDER TO MODIFY  
 SCHEDULING ORDER**

Judge: Hon. Kimberly J. Mueller

1           The discovery cut-off in this case is currently November 29, 2016. Dkt. 29.  
2 The expert disclosure deadline is currently July 29, 2016, with a rebuttal expert  
3 disclosure deadline of September 1, 2016. *Id.* The parties in this matter jointly  
4 request a modification of the expert disclosure dates to enable each party to  
5 complete sufficient fact discovery prior to expert disclosure. The parties do not  
6 anticipate that this will require any modification of the discovery cut-off or  
7 subsequent schedule in this case.

8           When an act must be done within a specified time, the court may, for good  
9 cause, extend the time with or without motion or notice if the court acts, or if a  
10 request is made, before the original time expires. Fed. R. Civ. P. 6(b)(1)(A). “The  
11 district court may modify the pretrial schedule ‘if it cannot reasonably be met  
12 despite the diligence of the party seeking the amendment.’” *Johnson v. Mammoth*  
13 *Recreations, Inc.* 975, F.2d 604, 609 (9th Cir. 1992) (quoting Fed. R. Civ. P. 16  
14 advisory committee notes of 1983 amendment).

15           Plaintiff served requests for production on February 3, 2016 to which  
16 Defendants have not yet completed their responsive production. For example,  
17 Defendants have not yet produced responsive electronically stored information  
18 (ESI), although they have represented that they are in the process of doing so, have  
19 duly undertaken electronic searches, and will complete production by June 15, 2016.  
20 Additionally, Defendants just produced many of the non-ESI responsive documents  
21 in the week of May 23, 2016. As a result, Plaintiff was compelled to postpone the  
22 first group of depositions by Plaintiff that had been scheduled to begin in May and  
23 June. As a result, Plaintiff will not be able to meet the current expert disclosure  
24 deadline, despite diligence in serving discovery requests and scheduling depositions  
25 in anticipation of this date. Defendants have maintained that they are responding  
26 diligently and with all possible speed, thereby necessitating an extension of the  
27 current deadlines. An extension of the pre-expert disclosure discovery period will  
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1 allow for both parties to complete depositions and subsequent related discovery.

2 The parties' proposed modification of the scheduling order is (original  
3 deadline noted in parentheses):

4 Last day for expert disclosure: October 3, 2016 (original July 29, 2016)

5 Last day for rebuttal expert reports: October 24, 2016 (original September 1,  
6 2016)

7 Close of discovery: November 29, 2016 (unchanged)

8 The parties respectfully request that the Court approve this stipulated  
9 modification of the scheduling order.

10 Dated: June 6, 2016

Respectfully submitted,

11 JOHN M. LUEBBERKE, City  
12 Attorney  
13 TED DANIEL WOOD, Deputy City  
14 Attorney

*/s/ Ted Wood*

15 TED DANIEL WOOD, Deputy City  
16 Attorney  
17 *Attorneys for Defendants*

18 Dated: June 6, 2016

RIFKIN LAW OFFICE

*/s/ Lori Rifkin*

19 Lori Rifkin  
20 *Attorney for Plaintiff*

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22 The Court finds good cause to grant the parties' stipulated request to modify  
23 the scheduling order, and modifies the scheduling order as set forth above.

24 PURSUANT TO STIPULATION, IT IS SO ORDERED.

25 Dated: June 8, 2016

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28 UNITED STATES DISTRICT JUDGE