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17 Attorneys for All Defendants

18 **UNITED STATES DISTRICT COURT**
EASTERN DISTRICT OF CALIFORNIA, SACRAMENTO DIVISION

19 Nathaniel Smith,
 20 Plaintiff,

21 v.

22 City of Stockton; Officer Patrick Mayer, Officer
 23 Robin Harrison, and Officer Michael Perez, in
 their individual capacities; and Chief of Police
 24 Eric Jones, in his official and individual
 capacities,

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

[Assigned to the Honorable Kimberly J. Mueller
 – Courtroom 3]

**JOINT STIPULATED REQUEST &
 ORDER TO MODIFY SCHEDULING
 ORDER**

Complaint filed:	February 12, 2015
Discovery Cut-Off:	May 26, 2017
Motion Cut-Off:	July 14, 2017
Trial Date:	TBD

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 JOINT STIPULATED REQUEST TO MODIFY
 SCHEDULING ORDER; [PROP] ORDER

1 Plaintiff NATHANIEL SMITH and Defendants CITY OF STOCKTON,
2 OFFICER ROBIN HARRISON, OFFICER PATRICK MAYER, OFFICER MICHAEL
3 PEREZ, and CHIEF OF POLICE ERIC JONES (hereinafter collectively referred to as
4 “Defendants”), by and through their undersigned counsel of record, and subject to the
5 approval of the court, hereby stipulate as follows:

6 Whereas, the discovery cut-off to complete expert discovery is May 26, 2017,
7 and the last date by which dispositive motions must be heard is July 14, 2017; and

8 Whereas the parties had all expert depositions scheduled to be completed by the
9 end of May. Plaintiff’s only expert, Scott DeFoe, was scheduled to be deposed on
10 May 12, 2017, but this deposition had to be cancelled at the last minute due to the
11 sudden passing of Mr. DeFoe’s mother on the evening of May 11, 2017; and

12 Defendants’ two experts were scheduled to be deposed *after* Mr. DeFoe; and

13 The parties wish to maintain the status quo in terms of the scheduling of expert
14 depositions with regards to Plaintiff’s expert being deposed first, followed by
15 Defendant’ two experts; and

16 Whereas, the parties jointly request that the expert discovery cut-off date be
17 modified to enable the parties time to complete expert discovery in the manner
18 described above in order to accommodate Mr. DeFoe’s period of bereavement; and

19 Whereas, expert testimony may provide crucial support for a dispositive motion
20 such that the parties request the last day to hear dispositive motions be extended
21 accordingly; and

22 Whereas, Plaintiff is incarcerated, and requests 3 weeks instead of the standard 2
23 weeks to file opposition to Defendants’ anticipated dispositive motion, and Defendants
24 are agreeable with that request in conjunction with the other modifications this
25 stipulation seeks and conditional on the Court granting those modifications; and

26 Whereas, when an act must be done within a specified time, the court may, for
27 good cause, extend the time with or without motion or notice of the court acts, or if a
28 request is made, before the original time expires. Fed. R. Civ. P. 6(b)(1)(A); *see also*

1 *Johnson v. Mammoth Recreations, Inc.* 975 F.2d 604, 609 (9th Cir. 1992) (“The district
2 court may modify the pretrial schedule ‘if it cannot be reasonably met despite the
3 diligence of the party seeking the amendment.’”);

4 The parties request that the Court modify the operative scheduling order in this
5 case as follows:

	Current	Proposed
7 Expert Discovery Cut-Off	5/26/17	7/28/17
8 Last Day to Hear Dispositive Motions	7/14/17	9/15/17 ¹
9 File Joint Pretrial Conference Statement	11/10/17	Unchanged
10 Final Pretrial Conference	12/8/17	Unchanged

11 Based on the foregoing, the parties respectfully request that the Court approve
12 this stipulated modification of the scheduling order.

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14 Respectfully Submitted,

15 Dated: May 17, 2017

HADSELL STORMER & RENICK LLP

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17 By: /s/ - Lori Rifkin

Lori Rifkin
Attorney for Plaintiff

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19 Dated: May 17, 2017

HERUM\CRABTREE\SUNTAG

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21 By: /s/ - Joshua J. Stevens

Joshua J. Stevens
Attorney for All Defendants

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1 Defendants anticipate filing their motion(s) 35 days before the hearing instead of 28 days
before the hearing to give Plaintiff an additional seven days to prepare and file opposition.

ORDER

The Court, having considered the parties' stipulation, and good cause appearing, the Joint Stipulated Request to Modify the Scheduling is GRANTED and all parties shall comply with its provisions.

The Court modifies the operative scheduling order in this case as follows:

	Current	Proposed
Expert Discovery Cut-Off	5/26/17	7/28/17
Last Day to Hear Dispositive Motions	7/14/17	9/22/17
File Joint Pretrial Conference Statement	11/10/17	Unchanged
Final Pretrial Conference	12/8/17	Unchanged

IT IS SO ORDERED.

DATED: June 16, 2017


UNITED STATES DISTRICT JUDGE