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

17 **ERNESTO BERRERA,**
 18
 Plaintiff,
 19
 v.
 20
 21 **J. SIVYER, et al.,**
 22
 Defendants.

2:15-cv-00610-KJM-EFB P
**STIPULATION AND [PROPOSED]
 ORDER TO MODIFY DISCOVERY AND
 SCHEDULING**
 Judge: The Honorable
 Edmund F. Brennan
 Trial Date: None Set
 Action Filed: March 18, 2015

24 Plaintiff Ernesto Berrera and Defendants Macomber and Sivyer (collectively, the
 25 “Parties”), by and through their respective attorneys, hereby stipulate as follows:

- 26 1. On October 26, 2017, the Court issued its Discovery and Scheduling Order in this
 27 case (ECF No. 47.) The current deadline for completion of discovery and filing motions to
 28 compel is March 2, 2018. The current deadline for filing dispositive motions is April 27, 2018.

1 The schedule was determined without the benefit of the parties' input. No trial date has been set
2 in this matter.

3 2. The parties have diligently conducted discovery to date, with plaintiff and
4 defendants having propounded requests for production, interrogatories and requests for
5 admissions to which the parties have responded. Defendants deposed Plaintiff on February 9,
6 2018, and Plaintiff deposed Defendant Sivyer on February 23, 2018.

7 3. The parties stipulate to additional time for completion of discovery and for filing
8 motions to compel until May 2, 2018, and for additional time to file any dispositive motions until
9 July 2, 2018, for the following reasons:

10 a. On February 23, 2018, Plaintiff's and Defendants' counsel met and
11 conferred in person on Plaintiff's responses to Defendants' written discovery. The parties
12 agreed that Plaintiff's responses to Defendants' written discovery are deficient, and
13 Plaintiff agreed to provide further responses. Defendants have requested these responses
14 by March 19, 2018.

15 b. Defendants' counsel only received a transcript of Plaintiff's deposition on
16 February 26, 2018, and requires additional time to review the transcript and meet and
17 confer with respect to documents which were not produced and questions to which
18 Plaintiff did not respond.

19 c. Plaintiff identified several inmate witnesses in responses to interrogatories,
20 four of which are incarcerated at prisons remote from Sacramento. Defendants' counsel
21 examined Plaintiff as to these witnesses potential testimony at his deposition, and requires
22 additional time to review the deposition transcript and then determine whether to depose
23 some or all of these potential witnesses. The parties would request that the Court
24 authorize the deposition of inmate witnesses by video conference, where feasible.

25 d. Plaintiff is incarcerated and thus, meetings with his attorney require
26 advance arrangements, and written communications can be made only via U.S. Mail.

27 e. The parties agree that it is necessary to complete discovery before
28 determining whether any dispositive motions are appropriate.

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ACCORDINGLY, it is HEREBY STIPULATED AND AGREED as follows:

- 1. The Parties may conduct discovery, including the filing of any motions to compel, until May 2, 2018;
- 2. The last date to file any dispositive motions shall be July 2, 2018; and
- 3. The depositions of any incarcerated witnesses may take place by video conference.

DATED: February 27, 2018 Amerio Law Firm

By: /s/ Stephen F. Davids
STEPHEN F. DAVIDS FOR PLAINTIFF

DATED: February 27, 2018 XAVIER BECERRA
Attorney General of California
R. LAWRENCE BRAGG
Acting Supervising Deputy Attorney General

By: /s/ Arthur B. Mark III
ARTHUR B. MARK III FOR DEFENDANTS

[PROPOSED] ORDER

This matter having come before the Court on the parties’ Stipulation to Modify the Discovery and Scheduling Order, and good cause appearing, the stipulation is GRANTED. The last date by which to conduct discovery and file motions to compel is extended until May 2, 2018. The parties may conduct depositions of any incarcerated witnesses via video conference, where feasible. The last date by which to file dispositive motions is extended until July 2, 2018.

IT IS SO ORDERED.

DATED: March 2, 2018.


United States Magistrate Judge