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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  
 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.) A stipulated extension of deadlines in this order was entered March 2, 2018.  
 28 (ECF No. 50.) The current deadline for completion of discovery and filing motions to compel is

1 May 2, 2018. The current deadline for filing dispositive motions is July 2, 2018. No trial date  
2 has been set 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 June 4, 2018, and for additional time to file any dispositive motions until  
9 August 3, 2018, for the following reasons:

10 a. On February 23, 2018, and March 29, 2018, Plaintiff's and Defendants'  
11 counsel met and conferred in person on Plaintiff's responses to Defendants' written  
12 discovery. The parties agreed that Plaintiff's responses to Defendants' written discovery  
13 are deficient, and Plaintiff agreed to provide further responses, including providing  
14 documents Plaintiff stated he had in his possession during his deposition. To date,  
15 Plaintiff has not produced any further responses as agreed, and while Plaintiff's counsel  
16 has attempted to resolve this issue with his client, attempts to date have not been fruitful.

17 b. Plaintiff identified several inmate witnesses in responses to interrogatories,  
18 four of which are incarcerated at prisons remote from Sacramento. Defendants noticed  
19 the depositions of two inmate witnesses for March 29, 2018 at California State Prison  
20 Sacramento. One witness appeared, however the other refused. Defendants' counsel is  
21 attempting to secure the attendance of this witness voluntarily. In addition, additional  
22 time is needed to schedule and complete video conference depositions of the remaining  
23 identified inmate witnesses.

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

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

28 ACCORDINGLY, it is HEREBY STIPULATED AND AGREED as follows:

1           1.       The Parties may conduct discovery, including the filing of any motions to compel,  
2 until June 4, 2018; and

3           2.       The last date to file any dispositive motions shall be August 3, 2018.

4  
5           DATED: April 23, 2018                           Amerio Law Firm

6  
7  
8   By: /s/ Stephen F. Davids  
   STEPHEN F. DAVIDS FOR PLAINTIFF

9  
10           DATED: April 23, 2018                           XAVIER BECERRA  
11   Attorney General of California  
12   R. LAWRENCE BRAGG  
13   Supervising Deputy Attorney General

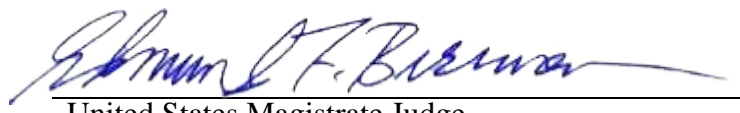
14   By: /s/ Arthur B. Mark III  
15   ARTHUR B. MARK III FOR DEFENDANTS

16  
17   **~~PROPOSED~~ ORDER**

18           This matter having come before the Court on the parties' Stipulation to Modify the  
19 Discovery and Scheduling Order, and good cause appearing, the stipulation is GRANTED. The  
20 last date by which to conduct discovery and file motions to compel is extended until June 4, 2018.  
21 The last date by which to file dispositive motions is extended until August 3, 2018.

22           IT IS SO ORDERED.

23           DATED: April 26, 2018.

24     
   United States Magistrate Judge

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