

1 modification on the orderly and efficient conduct of the trial; and (4) any degree of willfulness or
2 bad faith on the part of the party seeking the modification. *Hunt v. County of Orange*, 672 F.3d
3 606, 616 (9th Cir. 2012).

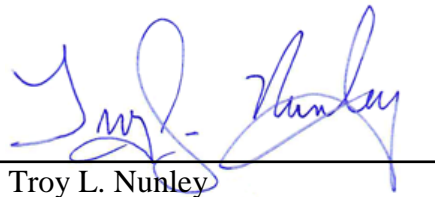
4 On balance, the Court finds these factors weigh in favor of modifying the Pretrial Order.
5 First, Defendant notes that Yacoubou is the author of the medical report dated October 20, 2014,
6 which pertains to Plaintiff's medical examination following the alleged excessive force incident.
7 (ECF No. 173-1 at 2.) This report was previously identified in the August 14, 2018, Pretrial
8 Order as Defendant's Exhibit C (see ECF No. 106 at 10). (ECF No. 173-1 at 2.) Defendant
9 appears to seek to add Yacoubou as a witness in lieu of the previously identified custodian of
10 medical records, mainly to alleviate any potential evidentiary and hearsay issues with presentation
11 of those medical records. (See *id.* at 3.) Because Yacoubou's signature appears at the bottom of
12 the record, it does not appear that permitting Yacoubou to testify regarding the report he authored
13 would cause any prejudice or surprise to Plaintiff. (*Id.* at 2.) Similarly, amendment will not
14 negatively impact the orderly and efficient conduct of the trial where Defendant identified the
15 report in his Pretrial Statement, thus providing Plaintiff notice of the report, as early as April 18,
16 2018. (ECF No. 101 at 10.) Finally, there does not appear to be any bad faith on the part of
17 Defendant for not previously seeking to include Yacoubou as a witness for this purpose (see ECF
18 No. 173-1 at 3), and Plaintiff has not filed any opposition to the motion. For these reasons, the
19 Court finds amendment is appropriate.

20 Accordingly, IT IS HEREBY ORDERED that Defendant's Motion to Modify the Pretrial
21 Order to add Nurse Yacoubou as a witness (ECF No. 173) is GRANTED.

22 IT IS SO ORDERED.

23 Dated: January 8, 2020

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Troy L. Nunley
United States District Judge