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 9 IN THE UNITED STATES DISTRICT COURT
 10 FOR THE EASTERN DISTRICT OF CALIFORNIA
 11 SACRAMENTO DIVISION

12
 13 **KARIMI SUTTON,**

14 Plaintiff,

15 v.

16 **G. GIESSNER, et al.,**

17 Defendants.
 18

2:16-cv-02369 KJM EFB

**STIPULATION TO MODIFY
 SCHEDULING ORDER**

Judge: The Honorable Edmund F.
 Brennan

Trial Date: Not set

Action Filed: September 23, 2016

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 20 Pursuant to Local Rule 143, the parties stipulate and ask the Court to Order that the
 21 scheduling order entered on April 2, 2019 (ECF No. 20) be modified as follows: (1) Plaintiff's
 22 deposition shall be completed on or before September 9, 2019; (2) any motions necessary to
 23 compel discovery shall be filed on or before September 16, 2019; (3) dispositive motions shall be
 24 filed on or before December 9, 2019; and (4) the Court will schedule pretrial proceedings, if
 25 necessary, upon the resolution of any pretrial motions filed.

26 "The district court is given broad discretion in supervising the pretrial phase of litigation."
 27 *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 607 (9th Cir. 1992) (citation and internal
 28 quotation marks omitted). Rule 16(b) provides that "[a] schedule may be modified only for good

1 cause and with the judge’s consent.” Fed. R. Civ. P. 16(b)(4). “The schedule may be modified
2 ‘if it cannot reasonably be met despite the diligence of the party seeking the extension.’” *Zivkovic*
3 *v. Southern California Edison Co.*, 302 F.3d 1080, 1087 (9th Cir. 2002) (quoting *Johnson*, 975
4 F.2d at 607).

5 Good cause exists for this extension. Plaintiff’s deposition was initially scheduled for July
6 9, 2019. In June 2019, Defendants’ counsel became aware that the Law Offices of Marc
7 Grossman intended to substitute into this case as counsel for Plaintiff Karimi Sutton. The
8 substitution of attorney was completed and approved by the Court on July 10, 2019. (ECF No.
9 25.) Due to the appearance of Plaintiff’s counsel, Defendants voluntarily agreed to move
10 Plaintiff’s deposition to August 2, 2019. Defendants’ and Plaintiff’s counsel arranged to appear
11 for the August 2, 2019 deposition by video teleconference. Plaintiff would appear for the
12 deposition in-person at his correctional institution, Substance Abuse Treatment Facility and State
13 Prison, Corcoran (SATF-CSP, Corcoran).

14 On the morning of August 2, 2019, approximately twenty minutes before the video
15 teleconference deposition was set to begin, the parties were made aware that the Internet
16 connection at Plaintiff’s correctional institution, SATF-CSP, Corcoran was and had been down
17 since 11 p.m. on August 1, 2019. As Plaintiff’s counsel is located in Upland, California, and
18 Defendants’ counsel is located in Sacramento, California, there was no feasible way for either
19 counsel to appear in-person on short notice. Counsel waited for approximately forty-five minutes
20 after the scheduled start-time to see if the Internet connection would be fixed, but it was not.
21 Counsel jointly agreed to postpone the deposition, complete this stipulation, and move the Court
22 for an Order to modify the scheduling conference. Additionally, Plaintiff’s counsel is scheduled
23 for a pre-paid vacation from August 4, 2019 to the close of the discovery period, which prevents
24 the parties from completing Plaintiff’s deposition by the Court ordered deadline of August 9,
25 2019. Accordingly, the parties request an additional 30 days to complete Plaintiff’s deposition.

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1 Accordingly, the parties hereby agree and stipulate as follows:

- 2 1. Plaintiff's deposition shall be complete on or before September 9, 2019;
- 3 2. Any motions necessary to compel discovery shall be filed on or before
- 4 September 16, 2019;
- 5 3. Dispositive motions shall be filed on or before December 9, 2019; and
- 6 4. The Court will schedule pretrial proceedings, if necessary, upon the resolution of any
- 7 pretrial motions filed.

8 Dated: August 5, 2019

Respectfully submitted,

9 XAVIER BECERRA
10 Attorney General of California
11 PHILLIP L. ARTHUR
Supervising Deputy Attorney General

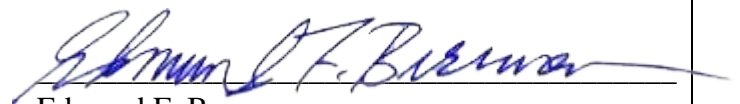
12 /s/ Erik A. Gutierrez
13 ERIK A. GUTIERREZ
14 Deputy Attorney General
Attorneys for Defendants G. Giessner, and N. Guzman

15 Dated: August 5, 2019

16 /s/ Marc Grossman
17 MARC GROSSMAN
18 LAW OFFICES OF MARC GROSSMAN
Attorneys for Plaintiff Karimi Sutton

19 IT IS SO ORDERED. The discovery and scheduling deadlines shall be modified as
20 follows: (1) Plaintiff's deposition shall be complete on or before September 9, 2019; (2) any
21 motions necessary to compel discovery shall be filed on or before September 16, 2019;
22 (3) dispositive motions shall be filed on or before December 9, 2019; (4) the Court will schedule
23 pretrial proceedings, if necessary, upon the resolution of any pretrial motions filed.

24 Dated: August 7, 2019

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26 
27 Edmund F. Brennan
28 United States Magistrate Judge

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