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11 Attorneys for Defendant  
 12 DUC NGUYEN, M.D.

13 UNITED STATES DISTRICT COURT  
 14 NORTHERN DISTRICT OF CALIFORNIA  
 15

16 JOHN TIMOTHY PEREZ,

17 Plaintiff,

18 vs.

19 D. NGUYEN, DR. BOWMAN, P. LA DUKE,  
 20 S.S.A. JONES, B. FRINTZ

21 Defendants.

Case No. 09-4939 JSW (KAW)

**JOINT STIPULATION AND  
 [PROPOSED] ORDER TO CONTINUE  
 TRIAL DATE AS MODIFIED**

Action Filed: October 16, 2009

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1 The Parties to the above entitled action, Dr. Duc Nguyen (“Defendant”) and John  
2 Timothy Perez (“Plaintiff”) (collectively referred to herein as the “Parties”), by and through their  
3 undersigned counsel, hereby stipulate and agree as follows:

4 1. WHEREAS, the trial in this matter is currently scheduled for November 25, 2013;

5 2. WHEREAS, the deadline for expert disclosures is July 9, 2013;

6 3. WHEREAS, the non-expert discovery cut-off is is June 24, 2013;

7 4. WHEREAS, on May 31, 2013, Defendant made a settlement offer to Plaintiff that  
8 will remain open until June 30, 2013;

9 5. WHEREAS, Plaintiff is still contemplating Defendant’s settlement offer and  
10 negotiations between the Parties are ongoing;

11 6. WHEREAS, the Parties wish to avoid incurring substantial expert fees and costs,  
12 if the matter can be resolved prior to expert discovery;

13 7. WHEREAS, the Parties have had difficulty scheduling the deposition of  
14 Defendant, due to his work schedule and his need to study for a medical licensing test;

15 8. WHEREAS, the Parties agreed to depose Dr. Bowman and Dr. Zewert after  
16 Defendant’s deposition was conducted and the Settlement Conference was concluded;

17 9. WHEREAS, the Parties still intend to conduct the depositions of Dr. Bowman and  
18 Dr. Zewert and have agreed to conduct those depositions in or before August 2013;

19 10. WHEREAS, communication, scheduling, and settlement negotiations in this  
20 matter have been difficult, due to Plaintiff’s confinement at Pelican Bay State Prison and limited  
21 means of communication;

22 11. WHEREAS, Plaintiff is currently seeking an appeal of his criminal case due to the  
23 recent United States Supreme Court ruling in *McQuiggan v. Perkins*, 133 S.Ct. 527 (2012), and  
24 both Parties believe that additional clarification regarding Plaintiff’s long-term incarceration  
25 status will help narrow and clarify any damage issues at trial;

26 12. WHEREAS, the Parties have met and conferred and have agreed to stipulate to a  
27 continuance of the trial date until April 8, 2014, and to re-set all pre-trial dates and discovery  
28 deadlines in accordance with this new trial date;

1           **NOW THEREFORE**, all Parties hereto stipulate and agree that the Court may enter an  
2 Order vacating the November 25, 2013 trial date and continuing the trial until April 8, 2014.  
3 The Parties further stipulate to and request that all pre-trial motion dates, discovery deadlines,  
4 and expert discovery deadlines be reset in accordance with the new trial date.

5           In the alternative, the Parties request that the Court vacate the current trial date and  
6 schedule a further Case Management Conference for July 2013, so that the Parties can update the  
7 Court regarding the status of the litigation and to reset the trial date and all pre-trial deadlines in  
8 accordance with the above.

9           **IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.**

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DATED: June 19, 2013

SEYFARTH SHAW LLP

By:                   /s/ Ari Hersher                    
Francis J. Ortman III  
Ari Hersher  
Matthew J. Mason  
Attorneys for Plaintiff  
JOHN TIMOTHY PEREZ

DATED: June 19, 2013

ANDRADA & ASSOCIATES

By:                   /s/ Matthew W. Roman                    
J. Randall Andrada  
Matthew W. Roman  
Attorneys for Defendant  
DUC NGUYEN, M.D.

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**[PROPOSED] ORDER**


~~[Proposed Order]~~ The November 25, 2013 trial date is vacated and trial in this matter is continued until April 8, 2014. All pre-trial motion dates, discovery deadlines, and expert discovery deadlines will be reset in accordance with the new trial date. Last day to hear dispositive motions CONTINUED to January 10, 2014 at 9:00 a.m. Jury selection CONTINUED to April 2, 2014 at 8:00 a.m.

~~[Alternative Proposed Order]~~ The November 25, 2013 trial date is vacated and the Parties are ordered to appear for a further Case Management Conference on July \_\_, 2013, at which time the Parties shall update the Court regarding the status of the litigation and reset the trial date and all pre-trial deadlines in accordance with the above.

Pretrial conference CONTINUED to March 17, 2014 at 2:00 p.m.

**PURSUANT TO STIPULATION, IT IS SO ORDERED.**

DATED: June 19, 2013 \_\_\_\_\_

  
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Hon. Jeffrey S. White  
United States District Judge

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