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11 UNITED STATES DISTRICT COURT  
12 NORTHERN DISTRICT OF CALIFORNIA  
13 SAN FRANCISCO DIVISION

14 AUDLEY BARRINGTON LYON, JR., et. al.,  
15 Plaintiffs,  
16 v.  
17 UNITED STATES IMMIGRATION AND  
18 CUSTOMS ENFORCEMENT, et. al.,  
19 Defendants.

Case No.: 13-cv-05878 EMC

**JOINT STIPULATION REGARDING  
SUBSTITUTION OF DEFENDANTS’  
EXPERT WITNESS; [PROPOSED]  
ORDER**

(modified)

CLASS ACTION

21 The Parties to this action hereby agree to the following and seek an order permitting  
22 Defendants to substitute their expert witness and allow Plaintiffs to seek permissible discovery  
23 from the substitute expert. As good cause for this request, the Parties state the following:

24 The deadline to complete expert discovery was January 11, 2016. *See* Dkt. No. 140. The  
25 parties had arranged for Plaintiffs to depose Defendants’ expert witness Michael Hackett on  
26 January 11, 2016. The week before the scheduled deposition, Mr. Hackett informed Defendants  
27 that he was dealing with a family medical crisis. Several days before the deposition, Mr. Hackett

1 informed Defendants that he had just learned that the medical issue was serious enough that he  
2 had to withdraw from the case. Defendants have confirmed with Mr. Hackett that he continues  
3 to be unavailable. Because Mr. Hackett was forced to withdraw based on a recently-discovered  
4 and very serious medical condition of an immediate family member for whom he continues to be  
5 the primary caretaker, good cause exists to extend expert discovery and allow Defendants to  
6 substitute experts.

7 Defendants immediately proposed to Plaintiffs that the Parties jointly move to allow  
8 Defendants to designate a substitute expert, and seek to extend both expert discovery and the  
9 briefing schedule for the Parties' cross-motions for summary judgment so that Plaintiffs would  
10 have sufficient time to depose the substitute expert before responding to Defendants' Cross-  
11 Motion for Summary Judgment. Plaintiffs, however, did not want to disturb the briefing  
12 schedule and instead proposed that, if this case was not resolved at the summary judgment stage  
13 and Mr. Hackett remained unavailable, Plaintiffs would agree at that time that Defendants could  
14 proffer a substitute expert for trial as long as the substitute expert's opinions did not expand upon  
15 or differ from Mr. Hackett's opinions, did not rely on facts or materials that Mr. Hackett did not  
16 review, and that Plaintiffs were given an adequate opportunity to conduct expert discovery.

17 The trial in this case is scheduled to begin on May 23, 2016. *See* Dkt. No. 96. To  
18 provide Plaintiffs with ample opportunity to conduct expert discovery, the Parties propose that  
19 (1) Defendants be permitted to substitute Mr. Richard Bryce for Mr. Michael Hackett as rebuttal  
20 expert in this case, (2) expert discovery be reopened solely for the purpose of allowing Plaintiffs  
21 to serve document requests on and depose Defendants' substitute expert on or before April 22,<sup>15</sup>  
22 2016, and (3) the motion in limine deadline for any challenge Plaintiffs may have to Defendants'  
23 proposed substitute expert ~~be extended to May 5, 2016.~~ will be discussed at the April 19, 2016  
24 Pretrial Conference.

25 This reopening of expert discovery until April 22, 2016, is limited to Defendants'  
26 substitute expert witness and will not affect any of the other current deadlines in this case.  
27  
28

1 Dated: March 15, 2016

OFFICE OF IMMIGRATION LITIGATION,  
CIVIL DIVISION  
U.S. DEPARTMENT OF JUSTICE

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16 Dated: March 15, 2016

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16 *Attorneys for Plaintiffs*

17 I, Brian C. Ward, am the ECF user whose user ID and password are being used to file this  
18 Stipulation. In accordance with Local Rule 5-1(i)(3), I hereby attest that the other signatories  
19 listed here have concurred in the filing of this document.

20 Dated: March 15, 2016

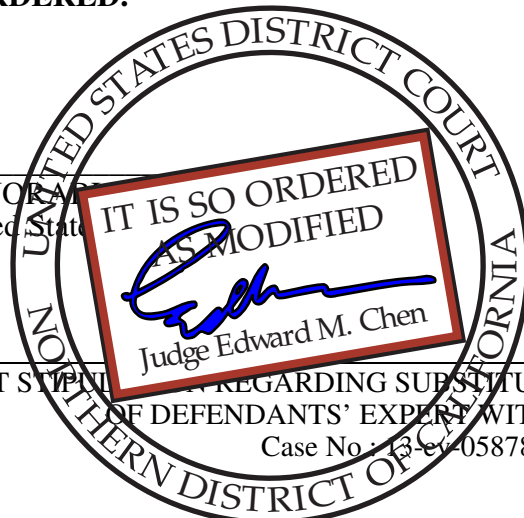
21 By: /s/ Brian C. Ward  
22 BRIAN C. WARD

23 **[~~PROPOSED~~] ORDER**

24 **PURSUANT TO STIPULATION, IT IS SO ORDERED.** (as revised above)

25 Dated: March 16, 2016

26 HONORABLE  
27 United States



28 JOINT STIPULATION REGARDING SUBSTITUTION  
OF DEFENDANTS' EXPERT WITNESS  
Case No. : 13-cv-05878 EMC

1 **CERTIFICATE OF SERVICE**

2 No. 3:13-cv-05878-EMC

3 I hereby certify that on this 15th day of March 2016, a true and correct copy of the  
4 foregoing **JOINT STIPULATION REGARDING SUBSTITUTION OF DEFENDANTS’**  
5 **EXPERT WITNESS** was served with the Clerk of Court by using the CM/ECF system, which  
6 provided an electronic notice and electronic link of the same to all attorneys of record through  
7 the Court’s CM/ECF system.  
8

9 By: /s/ Brian C. Ward  
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