

1 PILLSBURY WINTHROP SHAW PITTMAN LLP  
 THOMAS V. LORAN III (SBN 95255)  
 2 MARC H. AXELBAUM (SBN 209855)  
 50 Fremont Street  
 3 Post Office Box 7880  
 San Francisco, CA 94120-7880  
 4 Telephone: (415) 983-1000  
 Facsimile: (415) 983-1200  
 5 [thomas.loran@pillsburylaw.com](mailto:thomas.loran@pillsburylaw.com)  
[marc.axelbaum@pillsburylaw.com](mailto:marc.axelbaum@pillsburylaw.com)

6 Attorneys for Plaintiff  
 7 NICHOLAS BART ELLIS

8  
 9 IN THE UNITED STATES DISTRICT COURT  
 10 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
 11 OAKLAND DIVISION

	)		
NICHOLAS BART ELLIS,	)		No. C 07-5126 SBA (pr)
	)		
Plaintiff,	)		<b>STIPULATION AND [PROPOSED]</b>
	)		<b>ORDER MODIFYING DATES IN</b>
vs.	)		<b>ORDER FOR PRETRIAL</b>
	)		<b>PREPARATION</b>
A. NAVARRO, et al.,	)		Courtroom: 1
	)		Judge: Hon. Sandra Brown Armstrong
Defendants.	)		
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1 Plaintiff Nicholas Bart Ellis and Defendants A. Navarro, F. Juarez and B. Gardner  
2 (collectively, the “Parties”)<sup>1</sup> hereby stipulate as follows:

3 **STIPULATION**

4 WHEREAS the Parties have met and conferred regarding the schedule set in the  
5 Court’s Order for Pretrial Preparation (“Order,” Dkt. 49);

6 WHEREAS the parties are currently engaged in discovery;

7 WHEREAS litigation of this action requires extensive planning and preparation that  
8 a typical case does not entail, to wit:

- 9 • Plaintiff is incarcerated in the Security Housing Unit of Pelican Bay State  
10 Prison (“Pelican Bay”), known as the state prison with the highest-level of  
11 security in California;
- 12 • Because of Pelican Bay’s security restrictions and policies and practices  
13 concerning attorney-client telephone calls (see Dkts. 42-47), it is difficult for  
14 Plaintiff’s counsel, who were appointed by the Court to represent him, to  
15 consult with Plaintiff regularly or for any significant length of time  
16 (although the Parties’ counsel and Pelican Bay are working through these  
17 issues);
- 18 • Pelican Bay is located in Crescent City, California, 363 miles north of the  
19 San Francisco Bay Area, where the Parties’ counsel live and work;
- 20 • Most of the witnesses in the case work and live near Pelican Bay;
- 21 • Because of its remote location and security restrictions at the prison, travel  
22 to or from Pelican Bay takes approximately a full business day, and because  
23 of coastal weather conditions, flights are often cancelled or delayed;
- 24 • Document discovery requires the cooperation and assistance of the staff of  
25 Pelican Bay and the California Department of Corrections and

26 \_\_\_\_\_  
27 <sup>1</sup> On June 18, 2010, the Parties entered into a Stipulation and [Proposed] Order voluntarily  
28 dismissing Defendant C.E. Wilber pursuant to Federal Rule of Civil Procedure  
41(a)(1)(A). Dkt. 34.

1                   Rehabilitation, both of which are significantly under-staffed as a result of  
2                   state budget constraints;

3                   WHEREAS there are numerous fact witnesses who will need to be deposed in the  
4 case, including the Parties themselves, other witnesses to the incidents at issue, possibly  
5 medical personnel who treated Plaintiff, Pelican Bay and CDC officials who processed  
6 Plaintiff's administrative appeal (relevant to the exhaustion issues in the case), as well as  
7 expert witnesses;

8                   WHEREAS Plaintiff's counsel need to travel to Pelican Bay on a separate trip in  
9 advance of fact depositions in order to inspect and videotape various locations at Pelican  
10 Bay where the incidents took place;

11                  WHEREAS the Parties have agreed not to bring further dispositive motions  
12 (including any motions for summary judgment), but nevertheless require additional time to  
13 conduct fact and expert witness discovery;

14                  WHEREAS the Parties agree to the extension of dates set in the Order to allow  
15 sufficient time for discovery and trial preparation;

16                  WHEREAS the Parties have not sought any other extensions of the dates set in the  
17 Order;

18                  NOW, THEREFORE, the Parties, through their undersigned counsel, stipulate and  
19 request that the Court order that the pretrial dates set forth in the Order be modified as  
20 follows:

<b>Event</b>	<b>Date, per Order for Pretrial Preparation, Dkt. 49</b>	<b>[Proposed] Revised Dates</b>
Fact Discovery Cut-Off	September 30, 2011	December 2, 2011
Expert Designation	Plaintiff: September 30, 2011 Defendant: September 30, 2011 Rebuttal: October 14, 2011	November 18, 2011 November 18, 2011 December 2, 2012
Expert Discovery Cut-Off	December 19, 2011	February 3, 2012

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**[PROPOSED] ORDER**

Pursuant to the parties' stipulation, the Court's pretrial scheduling order is MODIFIED

AS FOLLOWS:

<b>Event</b>	<b>Date, per Order for Pretrial Preparation, Dkt. 49</b>	<b>[Proposed] Revised Dates</b>
Fact Discovery Cut-Off	September 30, 2011	December 2, 2011
Expert Designation	Plaintiff: September 30, 2011 Defendant: September 30, 2011 Rebuttal: October 14, 2011	November 18, 2011 November 18, 2011 December 2, 2012
Expert Discovery Cut-Off	December 19, 2011	February 3, 2012
Motion Cut-Off	November 15, 2011, 1pm	None needed – No further dispositive motions will be filed.
Mandatory Settlement Conference	November 21 to December 19, 2011	November 29, 9:30am (Judge Beeler), see Dkt. 50
Parties to Meet and Confer re Pretrial Preparation	December 10, 2011	January 31, 2012
Joint Pretrial Statement; Trial Briefs; Witness Lists; Designation of Discovery Excerpts; Proposed Jury Instructions, Voir Dire and Verdict Forms; Exhibits Due	December 13, 2011	February 7, 2012
Motions in Limine and Objections to Evidence Due	December 20, 2011	February 14, 2012
Oppositions to Motions in Limine and Objections to Evidence Due	December 27, 2011	February 21, 2012
Replies to Motions in Limine and Objections to Evidence Due	January 3, 2012	February 28, 2012
Pretrial Conference	January 10, 2012, 1pm	March 6, 2012, 1pm
Trial begins (10-day jury trial)	January 18, 2012, 8:30am	<del>March 14, 2012, 8:30am</del> March 12, 2012 at 8:30am

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All other terms of the pretrial scheduling order will remain the same.

**IT IS SO ORDERED.**

September 15, 2011



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The Hon. Sandra Brown Armstrong  
United States District Judge