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6 Attorneys for Defendants  
 7 CONTRA COSTA COUNTY,  
 SHERIFF WARREN E. RUPF,  
 8 and DEPUTY SHERIFF  
 GABRIELRODRIGUES

11 UNITED STATES DISTRICT COURT  
 12 NORTHERN DISTRICT OF CALIFORNIA

15 NEVILLE THOMAS HAWKINS,  
 16 Plaintiff,  
 17 v.  
 18 COUNTY OF CONTRA COSTA, et al.,  
 19 Defendants  
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No. C 08 - 03670 SBA  
 STIPULATION AND ORDER TO EXTEND  
 FACT DISCOVERY CUTOFF FOR  
 DEPOSITION OF PLAINTIFF

21 1. The fact discovery cut off under the present case management schedule in this action  
 22 is June 5, 2009.

23 2. Defendant began the deposition of the plaintiff in this action on March 16, 2009.  
 24 The deposition was not completed on that day, and the parties agreed to resume the deposition  
 25 at a later convenient date. Plaintiff has taken the depositions of defendant Gabriel Rodrigues  
 26 and Sheriff's deputy James Argo. Numerous medical records have been produced in response  
 27 to defendants' subpoenas, and additional depositions will be taken by plaintiff and defendants  
 28

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 PLAINTIFF - C 08-03670 SBA

1 before the fact discovery cut off expires.

2 3. Following ENE in this case, the parties continued settlement discussions and a  
3 tentative settlement agreement was reached on or around April 23, 2009. While those  
4 negotiations were ongoing, defendants noticed the continued deposition of plaintiff, to be held  
5 on May 12, 2009. Unfortunately, the settlement could not be concluded, and plaintiff notified  
6 defendant of that fact on May 7, 2009.

7 4. On May 8, 2009, plaintiff's counsel informed defendants' counsel that plaintiff.  
8 Hawkins was hospitalized at the Loma Linda University medical center at Loma Linda,  
9 California for a pulmonary heart condition, and would not appear for deposition on May 12 as  
10 noticed. On May 11, 2009 plaintiff's counsel provided written confirmation of plaintiff's  
11 medical condition in the form of an appointment record for echocardiogram to take place on  
12 May 13, 2009. The plaintiff did not appear for his deposition on May 12, 2009, because of his  
13 medical condition. As of the date this stipulation is filed, plaintiff continues to be unavailable  
14 for deposition owing to his medical condition, and plaintiff's counsel has not determined when  
15 plaintiff will be well enough to sit for his deposition.

16 5. As an alternative to defendants' filing a motion to compel plaintiff to appear for  
17 deposition as noticed, the parties submit this stipulation and order allowing plaintiff's  
18 deposition to be completed outside the present fact discovery cut off, and allowing further  
19 subpoenas for records in the event plaintiff reveals additional medical treatment not previously  
20 disclosed in this action. The parties request the court allow an additional 30 days in which to  
21 complete plaintiff's deposition and initiate any necessary unforeseen third-party record  
22 subpoenas.

23 SO STIPULATED.

24 (Signatures and proposed order on following page.)  
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SILVANO B. MARCHESI  
COUNTY COUNSEL

DATE: May 15, 2009

By: \_\_\_\_\_  
BERNARD KNAPP  
Deputy County Counsel  
Attorneys for Defendants  
CONTRA COSTA COUNTY,  
SHERIFF WARREN E. RUPF and  
DEPUTY SHERIFF GABRIEL  
RODRIGUES

DATE: May \_\_, 2009

LAW OFFICE OF DAVID C. ANDERSON  
  
By: \_\_\_\_\_  
DAVID C. ANDERSON  
Attorneys for Plaintiff  
NEVILLE THOMAS HAWKINS

ORDER

Good cause appearing from the above stipulation of counsel, IT IS ORDERED that the discovery cut off applicable to the continued deposition of plaintiff and initiation of any necessary third-party record subpoenas based on information learned at that deposition is extended to and including July 3, 2009.

DATE: 5/19/09

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*Sandra B. Armstrong*  
Sandra Brown Armstrong  
United States District Judge