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 15 **UNITED STATES DISTRICT COURT**
 16 **DISTRICT OF NEVADA**

17 BRIAN BORENSTEIN, an individual,
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 Plaintiff,
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 20 vs.
 21 THE ANIMAL FOUNDATION, a domestic
 nonprofit corporation; *et al.*
 22
 Defendants.
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Case No.: 2:19-cv-00985-APG-DJA

AMENDED STIPULATION AND
~~PROPOSED~~ ORDER TO AMEND
SCHEDULING ORDER

(First Request)

25 COME NOW Plaintiff, Brian Borenstein, by and through his counsel, Raelene K.
 26 Palmer, Esq. of The Palmer Law Firm, P.C., and Robert S. Melcic, Esq., and Defendants, The
 27 Animal Foundation and Carly Scholten, by and through their counsel, Kerry E. Kleiman, Esq.,
 28 of the law firm Reid Rubinstein & Bogatz, County of Clark and Victor Zavala, by and through

1 their counsel, Jonathan D. Blum, Esq., of the law firm Wiley Petersen, and Sunrise Hospital and
2 Medical Center, by and through its counsel, Joshua M. Dickey, Esq., of the law firm Bailey
3 Kennedy, and herein file their *Amended Stipulation and Proposed Order to Amend Scheduling*
4 *Order (First Request)*.

5 **I. STIPULATION**

6 **A. Recitals**

- 7 1. WHEREAS this is the first stipulation for extension of time to amend the *Scheduling*
8 *Order*, (including to extend the discovery cut-off and deadlines calculated or
9 triggered by the discovery cut-off, i.e., expert-disclosure deadlines, rebuttal-expert-
10 disclosure deadlines, dispositive-motion deadlines, and *Joint-Pretrial-Order*
11 *deadlines*);
- 12 2. WHEREAS this stipulation for modification of the *Scheduling Order* is filed prior to
13 the running of the deadlines affected by this stipulation (discovery cut-off, expert-
14 disclosure deadlines, rebuttal-expert-disclosure deadlines, dispositive-motion
15 deadlines, and *Joint-Pretrial-Order* deadlines);
- 16 3. WHEREAS the parties have conducted written discovery, as follows:
- 17 a. Plaintiff's Discovery:
- 18 • *Plaintiff's Initial Disclosures, under Rule 26*, producing documents
19 bates stamped **PLF00001-00206**;
 - 20 • *Plaintiff's Request for Production of Documents to Defendant The*
21 *Animal Foundation (Set No. 1, Nos. 1-3)*;
 - 22 • *Plaintiff's Request for Production of Documents to Defendant Clark*
23 *County (Set No. 1, Nos. 1-3)*;
 - 24 • *Plaintiff's Request for Production of Documents to Defendant Sunrise*
25 *Hospital and Medical Center (Set No. 1, Nos. 1-4)*;
 - 26 • *Plaintiff's First Set of Interrogatories to Defendant The Animal*
27 *Foundation (Set No. 1, Nos. 1)*;
 - 28 • *Subpoena to Produce Documents, Information, or Objects in a Civil*

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Action to Defendant Sunrise Hospital and Medical Center (Item Nos. 1-5);

- *(Revised) Subpoena to Produce Documents, Information, or Objects in a Civil Action to Defendant Sunrise Hospital and Medical Center (Item Nos. 1-4);*
- *Plaintiff's Response to Defendant The Animal Foundation's First Set of Requests for Production of Documents (Nos. 1-27); producing documents bates stamped **PLF00207-00223**;*

b. Defendant The Animal Foundation

- *Defendants The Animal Foundation and Carly Scholten's Initial Disclosures, under Rule 26, producing documents bates stamped **TAF000001-000131**;*
- *Defendant The Animal Foundation's Responses to Plaintiff's First Set of Requests for Production of Documents;*
- *Defendant The Animal Foundation's Responses to Plaintiff's First Set of Interrogatories;*

c. Defendant Carly Scholten

- *Defendants The Animal Foundation and Carly Scholten's Initial Disclosures, under Rule 26, producing documents bates stamped **TAF000001-000131**;*

d. Defendant County of Clark

- *Defendant County of Clark's Initial Disclosures, under Rule 26, producing documents bates stamped **CC 000001-000565**;*
- *Defendant County of Clark's Response to Plaintiff's Request for Production of Documents, producing documents bates stamped **CC 000001-000101**;*

e. Defendant Sunrise Hospital and Medical Center, LLC

- *Sunrise Hospital and Medical Center, LLC's Response to Plaintiff's*

1 (Revised) *Subpoena to Produce Documents, Information, or Objects*
2 *in a Civil Action*; producing documents bates stamped
3 **SUNRISE000001-000914**;

4 4. WHEREAS discovery could not be completed within the time limits set by the
5 current discovery plan, as set forth as follows:

- 6 a. Plaintiff filed a *Second Amended Complaint* (“SAC”) on August 23, 2021;
7 b. Defendant Sunrise Hospital and Medical Center, LLC filed a *Motion to*
8 *Dismiss SAC*, which was fully briefed on October 26, 2021;
9 c. Defendants, County of Clark and Victor Zavala, filed a *Motion to Dismiss*
10 *SAC*, which was fully briefed on October 12, 2021;
11 d. Defendants, The Animal Foundation and Carly Scholten, filed a *Motion to*
12 *Dismiss SAC & Renewed Special Anti-SLAPP Motion to Dismiss Under NRS*
13 *41.637*, which was fully briefed on November 12, 2021;
14 e. The Court’s ruling on the motions will impact the claims and defenses of the
15 defendants who remain the litigation; as such, with the claims and defenses
16 still in flux, the parties have not begun taking depositions and conducting
17 additional written discovery;¹
18 f. It is anticipated that the surviving parties will want to participate in any
19 depositions that might be taken against the currently named parties, such that
20 it would not be prudent to schedule those depositions at this time; and
21 g. The parties still need to provide, supplement, and/or amend their initial
22 disclosures, conduct more written discovery, and take the depositions of all
23 witnesses, including any expert witnesses who might be disclosed;

24 5. WHEREAS the current *Scheduling Order* (ECF No. 147) requires that discovery
25 must end not later than Friday, March 11, 2022, but this deadline will need to be
26 extended;

27 _____
28 ¹ The parties are not seeking to stay discovery. However, Sunrise Hospital and Medical Center, LLC reserves its right to move to stay discovery, and the other parties do not waive their rights to join or oppose any such motion.

1 6. WHEREAS the following deadlines are based on or triggered by the discovery-cut-
2 off, and will also need to be extended: (a) the amending of any pleadings and the
3 adding of any parties; (b) the making of any expert disclosures and rebuttal expert
4 disclosures; (c) the filing of any dispositive motions; and (d) the filing of a joint
5 pretrial order.

6 **B. Proposed Schedule for Completing Remaining Discovery**

7 THEREFORE, the parties herein stipulate to jointly petition the Court, and they hereby
8 do, to amend the *Scheduling Order*, by adding six (6) months to the Discovery Cut-Off deadline
9 that is currently in effect and the deadlines triggered by the close of discovery, such that:

- 10 1. The Discovery Cut-Off shall be extended by six months, from Friday, March 11,
11 2022, to **Monday, September 12, 2022**;²
- 12 2. The Deadline to Amend the Pleadings and Add Parties shall be extended from
13 Monday, December 13, 2021, to ninety (90) days prior to the proposed, extended
14 close of discovery, which date is **Tuesday, June 14, 2022**;
- 15 3. The Deadline for the Disclosure of Direct Experts shall be extended from Monday,
16 January 10, 2022, to sixty (60) days prior to the proposed, extended close of
17 discovery, which date is **Thursday, July 14, 2022**;
- 18 4. The Deadline for the Disclosure of Rebuttal Experts shall be extended such that the
19 disclosure of rebuttal experts and their reports shall occur within thirty (30) days
20 after the date on which the corresponding primary or direct expert disclosures are
21 made, as before; *i.e.*, the rebuttal expert deadline shall be extended from the latest
22 possible date of Wednesday, February 9, 2022, to the latest possible date of
23 **Monday, August 15, 2022**;³

24 _____
25 ² Six months after March 11, 2022, will occur on Sunday, September 11, 2022. Pursuant
26 to FRCP 6(a)(1)(C), this deadline rolls forward until the next court business day, which is the
date cited here, Monday, September 12, 2021.

27 ³ The thirtieth day after the proposed primary or direct expert disclosure deadline will
28 occur on August 13, 2022, which is a Saturday. Pursuant to FRCP 6(a)(1)(C), this deadline rolls
forward until the next court business day, which is the date cited here, Monday, August 15,
2022.

- 1 5. The Deadline to file Dispositive Motions shall be extended from Monday, April 11,
2 2022, to thirty (30) days after the proposed, extended date for the close of discovery,
3 which date is **Wednesday, October 12, 2022**; and
- 4 6. The Deadline to file a Joint Pretrial Order shall be extended from Wednesday, May
5 11, 2022, to thirty (30) days after the proposed, extended date for filing dispositive
6 motions, which date is **Monday, November 14, 2022**,⁴ or thirty (30) days after the
7 Court issues its order ruling on the final dispositive motion(s), if any.

8 In compliance with Local Rule (“LR”) IA 6-1, the reasons for requesting the extension
9 of time for the deadlines of an amended scheduling order are stated *supra*, at § I (A), ¶¶ 3-12,
10 and good cause is provided, therefor, in accordance with LR 26-3. This is the first request for
11 such an extension of time, and this stipulation is not offered for any dilatory or improper
12 purpose.

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27 ⁴ The thirtieth day after the proposed extended date for filing dispositive motions will
28 occur on November 11, 2022, which is a Friday, as well as a holiday. Pursuant to FRCP
28 6(a)(1)(C), this deadline rolls forward until the next court business day, which is the date cited
 here, Monday, November 14, 2022.

1 DATED this 22nd day of November 2021.

2 THE PALMER LAW FIRM, P.C.

3 *Electronic Signature Authorized*

4 By: / s / Raelene K. Palmer

5 Raelene K. Palmer, Esq.
6 State Bar No. 8602
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8 Las Vegas, Nevada 89149
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rpalmer@plflawyers.com
Attorneys for Plaintiff, Brian Borenstein

10 DATED this 22nd day of November 2021.

11 WILEY PETERSEN

12 *Electronic Signature Authorized*

13 By: / s / Jonathan D. Blum

14 Jonathan D. Blum, Esq.
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Attorneys for Defendants, County of Clark and Victor Zavala

DATED this 22nd day of November 2021.

REID RUBINSTEIN & BOGATZ

Electronic Signature Authorized

By: / s / Kerry E. Kleiman

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DATED this 22nd day of November 2021.

BAILEY KENNEDY

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Attorneys for Defendant, Sunrise Hospital and Medical Center, LLC

ORDER

THE COURT, having considered the preceding Stipulation and GOOD CAUSE appearing therefor, GRANTS the Stipulation. IT IS HEREBY ORDERED that the *Scheduling Order* shall be modified as follows:

1. The Discovery Cut-Off shall be extended by six months, from Friday, March 11, 2022, to **Monday, September 12, 2022;**
2. The Deadline to Amend the Pleadings and Add Parties shall be extended from Monday, December 13, 2021, to **Tuesday, June 14, 2022;**
3. The Deadline for the Disclosure of Direct Experts shall be extended from Monday, January 10, 2022, to **Thursday, July 14, 2022;**

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- 4. The Deadline for the Disclosure of Rebuttal Experts shall be extended from Wednesday, February 9, 2022, to **Monday, August 15, 2022**;
- 5. The Deadline to file Dispositive Motions shall be extended from Monday, April 11, 2022, to **Wednesday, October 12, 2022**; and
- 6. The Deadline to file a Joint Pretrial Order shall be extended from Wednesday, May 11, 2022, to **Monday, November 14, 2022**.

DATED: November 23, 2021.

IT IS SO ORDERED



UNITED STATES MAGISTRATE JUDGE