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9
 10 **UNITED STATES DISTRICT COURT**
 11 **DISTRICT OF NEVADA**

12 SERGIO MORALES,

13 Plaintiff,

14 v.

15 MICHAEL MINEV, *et al.*,

16 Defendants.

Case No. 2:22-cv-00387-RFB-EJY

STIPULATION AND ~~PROPOSED~~
ORDER TO EXTEND DISCOVERY
AND OTHER DEADLINES
(FIRST REQUEST)

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 18 Defendants Wilson Bernales, Michael Minev, and Calvin Johnson, by and through
 19 counsel, Aaron D. Ford, Nevada Attorney General, and Janet L. Merrill Esq., Deputy
 20 Attorney General, of the State of Nevada, Office of the Attorney General, and Plaintiff
 21 Sergio Morales, by and through Milan Chatterjee Esq. of Milan's Legal, hereby stipulate
 22 and agree to extend the time for discovery and other deadlines as set forth herein.

23 This is the Parties' first requested modification of the Scheduling Order since the
 24 appearance of pro bono counsel, Mr. Chatterjee, Esq.

25 There are both good cause and excusable neglect for this Court to grant an extension
 26 of discovery. LR 26-3.

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1 **I. CERTIFICATION REGARDING MEET AND CONFER AND**
2 **BACKGROUND**

3 The Parties hereby declare and certify that they met and conferred via telephone on March
4 25, 2024, and agreed that an extension of discovery to October 2, 2024, would benefit both
5 Parties for the reasons set forth below.

6 The Parties respectfully request another one hundred and eighty (180) days for
7 discovery. This request is based on a variety of circumstances. Milan Chatterjee is acting
8 as pro bono counsel. ECF No. 53. Upon his appearance, the Parties submitted a Proposed
9 Plan and Scheduling Order. ECF No. 55. The Honorable Court granted the Proposed
10 Plan and issued the Scheduling Order, setting a discovery cut-off for April 5, 2024. ECF
11 No. 56. Since such time, Mr. Chatterjee has encountered scheduling conflicts and
12 difficulties in communicating with his incarcerated client and his client's relatives, which
13 has slowed down efforts. Mr. Chatterjee has been in communication with the Legal Aid of
14 Southern Nevada in regard to certain matters for representing his client—including to
15 obtain necessary resources to prosecute this case—and the Legal Aid Center of Southern
16 Nevada has been delayed in their response (though they are well-aware of Mr. Chatterjee's
17 several communication attempts and requests for necessary resources). Mr. Chatterjee
18 has also been required to travel abroad on two occasions for prolonged periods, including
19 for a death in his family.

20 As can be seen by the docket, the Parties have been focusing their efforts and
21 communication on the medical treatment of Mr. Sergio Morales. On February 15, 2024,
22 Defendants filed a Status Report with certain medical records submitted under seal. ECF
23 59, ECF No. 60 and ECF No. 61. Mr. Morales' treatment continues and as such, additional
24 time is needed in relation to discovery and alleged damages.

25 **II. STATEMENT OF DISCOVERY COMPLETED TO-DATE**

26 Both sides have completed written disclosures.

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1 **III. DESCRIPTION OF DISCOVERY THAT REMAINS TO BE COMPLETED**

2 In light of the circumstances listed above, the Parties require additional time to
3 complete discovery including written discovery requests, and if necessary, depositions and
4 the retention of expert witnesses.

5 **IV. STATEMENT OF GOOD CAUSE AND EXCUSABLE NEGLIGENCE**

6 To demonstrate good cause, the parties must show “that, even in the exercise of due
7 diligence, [the parties were] unable to meet the timetable set forth in the order.” *Cruz v.*
8 *City of Anaheim*, CV10-03997-MMM-JEMX, 2011 WL 13214312, at *2 (C.D. Cal. Dec. 19,
9 2011) (citing *Zivkovic v. Southern California Edison Co.*, 302 F.3d 1080, 1087 (9th Cir.
10 2002); *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir. 1992)).
11 Prejudice to the opposing party is a factor in determining good cause, though lack of
12 prejudice is “not a prerequisite.” *Id.*

13 Excusable neglect, depends on “four factors: (1) the danger of prejudice to the
14 opposing party; (2) the length of the delay and its potential impact on the proceedings; (3)
15 the reason for the delay; and (4) whether the movant acted in good faith.” *Bateman v. U.S.*
16 *Postal Service*, 231 F.3d 1220, 1223–24 (9th Cir. 2000)

17 The Parties have specifically met and conferred and agreed to extend the discovery
18 deadline. The Parties’ focus has been on the ongoing medical treatment of Mr. Sergio
19 Morales. Completion of discovery is best suited following upcoming treatment.

20 Both Parties will benefit from an extension, and neither party will be prejudiced by
21 the additional time to conduct discovery. Therefore, both good cause and excusable neglect
22 are present to extend discovery.

23 **V. PROPOSED SCHEDULE FOR COMPLETING ALL REMAINING**
24 **DISCOVERY**

25 The Parties propose the following schedule for completion of all remaining discovery
26 and the filing of any dispositive motions:

- 27 • The deadline for completion of discovery will be extended to **October 2, 2024.**

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- In accordance with Rule 26(a)(2) and Local Rule 26-1(b)(3), initial disclosures identifying experts shall be made sixty (60) days prior to the discovery cut-off date, and therefore, not later than **Monday, August 5, 2024**, and disclosures identifying rebuttal experts shall be made thirty (30) days after the initial disclosure of experts and, therefore, not later than **Wednesday, September 4, 2024**.
- The deadline to file any dispositive motions will be extended until **November 1, 2024**.
- The deadline to file a Joint Pre-Trial order will be extended until **December 2, 2024**, or, if dispositive motions are filed, until thirty (30) days after the entry of any order on the dispositive motions.

VI. CONCLUSION

Based on the foregoing, good cause and excusable neglect exist, and the parties respectfully request that this Court extend the deadlines as set forth above.

DATED this 27th day of March 2024.

DATED this 27th day of March 2024.

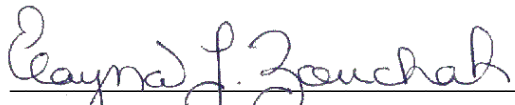
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IT IS SO ORDERED



UNITED STATES MAGISTRATE JUDGE

DATED: March 27, 2024