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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
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12 **TRACY RIFLE AND PISTOL LLC et al.,**
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Plaintiffs,
14
15 **v.**
16 **KAMALA D. HARRIS, in her official**
capacity as Attorney General of California,
17 **et al.,**
18 Defendants.
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2:14-cv-02626-TLN-DADA

**JOINT APPLICATION TO MODIFY
THE PRETRIAL SCHEDULING ORDER
AND SUPPORTING DECLARATION OF
NELSON RICHARDS**

Judge: Hon. Troy L. Nunley
Trial Date: 02/06/2017
Action Filed: 11/10/2014

Pursuant to Rule 16(b) of the Federal Rules of Civil Procedure, Local Rule 144, and this Court's standing order, the parties request that the Court modify the October 16, 2015 pretrial scheduling order, ECF No. 37, as follows:

- The February 29, 2016 fact discovery deadline in paragraph IV extended 149 days to: **July 26, 2016**;
- The April 28, 2016 expert disclosure deadline in paragraph V extended 90 days to: **July 26, 2016**; and
- The August 25, 2016 dispositive motion deadline in paragraph VI extended 61 days to: **October 24, 2016**.

All other deadlines would remain unchanged. There have been no prior requests to modify the scheduling order.

The parties agree that good cause exists to modify the scheduling order as outlined above because counsel for defendants need more time to research and prepare for expert discovery.

Counsel for defendants started researching and contacting potential expert witnesses in Fall 2015. (Richards Decl. ¶ 3.) Since early December, however, counsel has had a series of commitments that have left him with no time to develop defendants' case, particularly continuing his efforts to locate and retain expert witnesses. (*Id.* ¶ 4.) From December 4 through December 22, 2015, he was on parental leave. (*Id.* ¶ 5.) On January 8, he received a request for supplemental briefing in *Gerawan Farming, Inc. v. California Agricultural Labor Relations Board* (Cal. Fifth DCA Case No. F069896); he filed the requested brief on February 1, 2016. (*Id.* ¶ 6.) Earlier this month, counsel gave two oral arguments in the Ninth Circuit, one in the interlocutory appeal from this Court's July 16, 2015 order denying plaintiffs' motion for preliminary injunction (9th Cir. Case No. 15-16501), and one in *Del Real v. Harris* (9th Cir. Case No. 13-16893). (*Id.* ¶¶ 7-8.) Counsel has a respondent's brief due in *National Shooting Sports Foundation, Inc. v. California* (Cal. Fifth DCA Case No. F072310) on February 29, 2016. (*Id.* ¶ 9.) These obligations, in addition to his obligations in several other cases and non-litigation matters, left no time to continue his research into or coordination with potential expert witnesses. (*Id.* ¶ 10.) Counsel is also set to resume his parental leave on February 29 and continue it until April 11, 2016. (*Id.* ¶ 11.)

1 Moving the deadline for expert disclosures back 90 days would allow counsel to complete
2 his investigation into potential experts. (*Id.* ¶ 12.) The parties do not anticipate that the
3 modifications they request will affect the trial date in this matter.

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5 Dated: February 26, 2016

KAMALA D. HARRIS
Attorney General of California

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8 /s/ Nelson Richards
NELSON RICHARDS
9 DEPUTY ATTORNEY GENERAL
10 *Attorneys for Defendants*

11 Dated: February 26, 2016

BENBROOK LAW GROUP, PC

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14 /s/ Steve Duvernay (as authorized on 02/26/2016)
STEPHEN M. DUVERNAY
15 *Attorney for Plaintiffs*

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DECLARATION OF NELSON RICHARDS

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2 1. I am a Deputy Attorney General with the California Department of Justice, Office of
3 the Attorney General, and an attorney in this matter for Defendants Kamala D. Harris, in her
4 official capacity as Attorney General of California, and Stephen J. Lindley, in his official capacity
5 as Chief of the California Department of Justice Bureau of Firearms. I am an attorney at law duly
6 licensed to practice before all courts of the State of California and admitted to practice before the
7 United States District Court for the Eastern District of California. I have personal knowledge of
8 the facts set forth below and if called as a witness, I could and would competently testify to them.

9 2. This declaration is made in support of the parties' Joint Application to Modify the
10 Scheduling Order.

11 3. I started researching and contacting potential experts in the Fall 2015.

12 4. Since early December 2015, however, several commitments have left me with no
13 time research, contact, and coordinate with potential expert witnesses.

14 5. I was on parental leave from December 4 through December 22, 2015.

15 6. On January 8, 2016, I received a request for supplemental briefing in *Gerawan*
16 *Farming, Inc. v. California Agricultural Labor Relations Board* (Cal. Fifth DCA Case No.
17 F069896). I filed that supplemental brief on February 1, 2016.

18 7. On February 8, 2016, I argued *Del Real v. Harris* in the Ninth Circuit (Case No. 13-
19 16893).

20 8. On February 9, 2016, I presented argument in the Ninth Circuit in the interlocutory
21 appeal from this Court's July 16, 2015 order denying plaintiffs' motion for preliminary injunction
22 (Case No. 15-16501).

23 9. I have a respondent's brief due in *National Shooting Sports Foundation, Inc. v.*
24 *California* (Cal. Fifth DCA Case No. F072310) on February 29, 2016. (*Id.* ¶ 9.)

25 10. In addition to these cases, I have had significant commitments in other cases and non-
26 litigation matters.

27 11. I will continue my parental leave starting February 29 to April 11, 2016.
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1 12. I anticipate that an additional 90 days for expert discovery would allow me to
2 complete my investigation into expert witnesses.

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4 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and
5 correct.

6 Executed on: February 26, 2016

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8 /s/ Nelson Richards
9 NELSON R. RICHARDS
10 Deputy Attorney General
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