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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 IRWIN DOUGLAS,

11 Plaintiff,

No. CIV S-09-1038 KJM EFB PS

12 vs.

13 SACRAMENTO COUNTY, et al.,

14 Defendants.

ORDER

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16 This action is before the undersigned pursuant to Eastern District of California Local
17 Rule 302(c)(21). *See* 28 U.S.C. § 636(b)(1). On March 16, 2011, defendants filed an *ex parte*
18 application to modify the status (pretrial scheduling) order in this action. Dckt. No. 64; *see also*
19 Dckt. Nos. 24, 59. Specifically, defendants seek to continue the final pretrial conference and
20 trial dates in light of the pending findings and recommendations, which recommend that
21 summary judgment be granted for defendants and that this action be closed, but which have not
22 yet been adopted or rejected by the district judge. *See* Dckt. No. 61.

23 A schedule may be modified upon a showing of good cause. Fed. R. Civ. P. 16(b). Good
24 cause exists when the moving party demonstrates he cannot meet the deadline despite exercising
25 due diligence. *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir. 1992).
26 “Although the existence or degree of prejudice to the party opposing the modification might

1 supply additional reasons to deny a motion, the focus of the inquiry is upon the moving party's
2 reasons for seeking modification." *Id.* Here, although defendants' *ex parte* application is not in
3 strict compliance with the Local Rules,¹ the application is supported by good cause.

4 Accordingly, IT IS HEREBY ORDERED that:

5 1. Defendants' *ex parte* application to modify the scheduling order, Dckt. No. 64, is
6 granted.

7 2. The final pretrial conference, which is currently scheduled for April 6, 2011, is
8 continued to July 6, 2011 at 10:00 a.m. in Courtroom No. 24. The parties shall file pretrial
9 statements, as required by the November 10, 2009 status (pretrial scheduling) order, no later than
10 June 22, 2011.

11 3. The June 7, 2011 trial date is vacated at this time. If the February 10, 2011 findings
12 and recommendations are not adopted, a new trial date will be set before the assigned district
13 judge.

14 SO ORDERED.

15 DATED: March 17, 2011.


EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE

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23 ¹ Local Rule 230 provides that "[e]xcept as otherwise provided in these Rules or as
24 ordered or allowed by the Court, all motions shall be noticed on the motion calendar of the
25 assigned Judge or Magistrate Judge." Local Rule 144, which permits matters to be heard on
26 shortened time, provides that "[a]pplications to shorten time shall set forth by affidavit of
counsel the circumstances claimed to justify the issuance of an order shortening time [and] will
not be granted except upon affidavit of counsel showing a satisfactory explanation for the need
for the issuance of such an order and for the failure of counsel to obtain a stipulation for the
issuance of such an order from other counsel or parties in the action."