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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

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TOM BEAN,

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No. CV 07-8063-PCT-JAT

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Plaintiff,

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ORDER

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vs.

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HOUGHTON MIFFLIN HARCOURT
PUBLISHING COMPANY, AND R.R.)
DONNELLEY & SONS COMPANY,

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Defendants.

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Pending before the Court is Plaintiff's motion to extend time to file a motion to amend the complaint. The motion to extend time was filed on November 3, 2008. Per this Court's scheduling order, any motion to amend the complaint was due on November 3, 2008. (Doc. #60). Plaintiff claims that he could not file his motion by that deadline because of various discovery issues he has had with Defendants.

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The parties have been in discovery since at least September 29, 2008. Per the scheduling order, any discovery disputes must be raised before the Court by the parties calling the Court on a conference call. To date, no discovery disputes have been raised. Thus, the Court does not find Plaintiff's allegations regarding discovery to be good cause for extending this deadline because Plaintiff did not properly raise any discovery issues before the deadline to file a motion to amend ran. Further, the Court agrees with Defendants that Plaintiff's argument that he wishes to amend his complaint merely to add more facts to his

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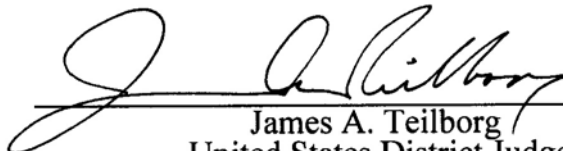
1 already filed claims does not show good cause to extend this deadline. Accordingly, the
2 Court will deny the motion to extend this deadline. Should Plaintiff choose to later seek to
3 amend his complaint, he must first overcome the timeliness issue under Rule 16, before
4 showing why leave to amend is appropriate under Rule 15. *See Jackson v. Laureate, Inc.*,
5 186 F.R.D. 605, 608 (E.D. Cal. 1999).

6 Finally, the Court hereby makes clear that none of the discovery issues referenced in
7 Plaintiff's motion to extend time have been properly raised before the Court nor are they
8 under consideration by the Court. Therefore, to the extent Plaintiff seeks a ruling on any of
9 these discovery issues, Plaintiff must present the issues to the Court using the procedure
10 outlined in this Court's scheduling order. (Doc. #60 at 4).

11 Based on the foregoing,

12 IT IS ORDERED that Plaintiff's motion to extend time to file a motion to amend the
13 complaint (Doc. #67) is denied.

14 DATED this 12th day of December, 2008.

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18 James A. Teilborg
19 United States District Judge
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