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

Ty Hertig,	)	No. CV-04-05633-ROS (PC)
Plaintiff,	)	<b>ORDER</b>
vs.	)	
Steve Cambra, et al.,	)	
Defendants.	)	

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Before the Court is Defendant Friedman’s Motion to Modify the Scheduling Order (Doc. 41), which will be granted. Also before the Court is Plaintiff’s Motion for Extension of Time to Respond to the Court’s Scheduling Order (Doc. 38), and Motion for Appointment of Counsel (Doc. 37), which will both be denied.

**DISCUSSION**

**I. Motion to Modify the Scheduling Order.**

Defendant seeks to modify the Court’s October 23, 2009 Scheduling Order to extend the deadline for dispositive motions by 30 days. Defendant filed a motion for summary judgment on April 21, 2010, but the deadline for dispositive motions was March 22, 2010. Defendant argues he acquired new counsel who needed additional time to prepare the motion. Plaintiff has not opposed the motion, and it will be granted.

1 **II. Motion for Extension of Time to Respond to Scheduling Order**

2 Plaintiff filed a Motion for Extension of Time to respond to the Court's October 22,  
3 2009 Scheduling and Discovery Order but does not explain why he would like to respond to  
4 the Order. As the Court will be issuing an amended scheduling order, Plaintiff's motion for  
5 an extension of time to respond is moot and will be denied.

6 **III. Motion for Appointment of Class Counsel**

7 In proceedings *in forma pauperis*, a district court "may request an attorney to  
8 represent any person unable to afford counsel." 28 U.S.C. § 1915(e)(1). The decision to  
9 appoint counsel is within the "sound discretion" of the trial court, but is granted only in  
10 "exceptional circumstances." *Agyeman v. Corr. Corp. of Am.*, 390 F.3d 1101, 1103 (9th Cir.  
11 2004) (internal citation and quotation marks omitted). Plaintiff's only remaining claim  
12 alleges Defendant was deliberately indifferent to his serious medical needs, and seeks an  
13 injunction requiring Defendants to remove a "false report authored by Defendant D.  
14 Edmonds, RN" from Plaintiff's CDCR file. (Doc. 17 at 14). Plaintiff has not shown a  
15 likelihood of success on this claim or other exceptional circumstances meriting appointment  
16 of counsel. The motion will be denied.


17 Accordingly,

18 **IT IS ORDERED** Defendant's Motion to Modify the Scheduling Order (Doc. 41)  
19 **IS GRANTED.** The dispositive motions deadline is extended to April 21, 2010.

20 **FURTHER ORDERED** Plaintiff's Motion for Extension of Time (Doc. 38) **IS**  
21 **DENIED** as moot.

22 **FURTHER ORDERED** Plaintiff's Motion for Appointment of Class Counsel  
23 (Doc. 37) **IS DENIED.**

24 DATED this 6<sup>th</sup> day of May, 2010.

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Roslyn O. Silver  
United States District Judge