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IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

PARNELL CURTIS,

Plaintiff,

vs.

BUCKLEY, et al.,

Defendants.

No. 1:06-CV-0230-SMM-PC

ORDER

Before the Court is Defendants' Amended Motion to Modify the Scheduling Order (Doc. 51). Defendants request that the discovery deadline be extended to June 1, 2009 in order that a deposition of Plaintiff may occur, and any motions to compel, if necessary, may be filed.

On March 3, 2009, Defendants attempted to serve Plaintiff with a Notice of Deposition with Production of Documents at Plaintiff's address of record. Once Defendants learned that Plaintiff no longer resided at Kern Valley State Prison, it was fewer than 45 days before the discovery cutoff. As a result, on March 26, 2009, Defendants filed a Motion to Dismiss for Plaintiff's failure to keep the Court notified of his current address. Alternatively, Defendants sought an order requiring Plaintiff to update his address and modifying the scheduling order to allow a later deposition to occur. This Motion to Dismiss, or in the alternative, to Compel Plaintiff to Update His Address of Record and Modification of the Scheduling Order is still pending before this

Court (Doc. 49). On April 3, 2009, Plaintiff updated his address with the Court, and he is now at the California Correctional Institution in Tehachapi (Doc. 50). Then, on April 6, 2009, Defendants prepared an amended Notice of Deposition with Production of Documents, which was served by mail that same day to Plaintiff's new address of record. The notice states that the deposition is scheduled at Plaintiff's current location on May 27, 2009.

In light of Plaintiff updating his address, and a new Notice of Deposition being sent to him, Defendants filed this Amended Motion and request that the discovery deadline be extended to June 1, 2009 (Doc. 51).

Accordingly,

IT IS HEREBY ORDERED GRANTING Defendants' Amended Motion to Modify the Scheduling Order (Doc. 51). The discovery deadline is extended to June 1, 2009.

IT IS FURTHER ORDERED DENYING Defendants' Motion to Dismiss, or in the alternative, to Compel Plaintiff to Update His Address of Record and Modification of the Scheduling Order (Doc. 49) as moot.

IT IS FURTHER ORDERED that all other provisions in the Scheduling Order (Doc. 45) shall remain in effect.

DATED this 9th day of April, 2009.

Stephen M. McNamee
United States District Judge