

1 Currently pending before the Court is Defendants’ motion to modify the dispositive motion
2 deadline, which was filed on November 18, 2013. (ECF No. 135.) The Court finds a response
3 unnecessary and the matter is deemed submitted. Local Rule 230(l).

4 **II. Discussion**

5 **A. Legal Standard**

6 Pursuant to Rule 16(b), a scheduling order “may be modified only for good cause and with the
7 judge’s consent.” Fed. R. Civ. P. 16(b)(4). The “good cause” standard “primarily considers the
8 diligence of the party seeking the amendment.” Johnson v. Mammoth Recreations, Inc., 975 F.2d 604,
9 609 (9th Cir. 1992). The district court may modify the scheduling order “if it cannot reasonably be
10 met despite the diligence of the party seeking the extension.” Id. If the party was not diligent, the
11 inquiry should end. Id.

12 **B. Analysis**

13 Defendants explain that following the Court’s September 13, 2013 order modifying the
14 Discovery and Scheduling to allow for completion of Plaintiff’s deposition within thirty days and the
15 filing of dispositive motions within sixty days, Defendants scheduled Plaintiff’s video deposition for
16 October 10, 2013. Plaintiff’s deposition proceeded for approximately five hours, but could not be
17 completed because correctional staff at CSP-Lancaster, where Plaintiff had transferred, advised that
18 Plaintiff was required to return to his cell. (ECF No. 135-1; Declaration of Ellen Y. Hung (“Hung
19 Dec.”) ¶ 6.) The parties agreed that they would reconvene to complete the deposition at a later date.
20 Due to the limited number of mutually available dates and equipment, Defendants did not complete
21 Plaintiff’s deposition until November 8, 2013. (Hung Dec. ¶ 7.) Based on the unexpected delay in
22 completing the deposition, Defendants and their counsel now seek additional time to prepare and file
23 their motion for summary judgment. (Hung Dec. ¶ 8.) Defendants further explain that their counsel
24 was out of the office for portions of the weeks of November 4 and November 13, 2013, because of
25 medical issues under the Family Medical Leave Act. (Hung ¶ 9.)

26 Based on the foregoing and the declaration of defense counsel, the Court finds that the relevant
27 dispositive motion could not be met despite Defendants’ diligence in completing Plaintiff’s deposition.
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1 Further, allowing the parties additional time to file any dispositive motions will promote judicial
2 economy and efficiency by potentially resolving or narrowing any issues for trial.

3 **III. Conclusion and Order**

4 For the reasons stated, Defendants' motion to extend the dispositive motion deadline is
5 GRANTED. The parties shall file and serve any dispositive motions within thirty days following
6 service of this order.

7 IT IS SO ORDERED.

8 Dated: December 4, 2013

9 /s/ Barbara A. McAuliffe
10 UNITED STATES MAGISTRATE JUDGE