

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

DONALD J. ACKLEY,

Plaintiff,

v.

D. CARROLL, et al.,

Defendants.

CASE NO. 1:06-cv-00771-AWI-BAM PC

ORDER GRANTING DEFENDANTS' SECOND MOTION TO AMEND THE SCHEDULING ORDER AND VACATING DATES FOR TELEPHONIC TRIAL CONFIRMATION HEARING AND TRIAL

(ECF No. 74)

SECOND AMENDED SECOND SCHEDULING ORDER

Telephonic Trial Confirmation

Hearing: May 14, 2012, at 3:00 p.m. in Courtroom 2 (AWI)

Jury Trial: June 26, 2012, at 8:30 a.m. in Courtroom 2 (AWI)

Plaintiff Donald J. Ackley ("Plaintiff") is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. On November 8, 2011, Defendants filed a second motion to amend the scheduling order due to defense counsel having a previously set trial that conflicts with the current date set for trial in this action. (ECF No. 74.)

Modification of a scheduling order requires a showing of good cause, Fed. R. Civ. P. 16(b), and good cause requires a showing of due diligence, Johnson v. Mammoth Recreations, Inc., 975 F.2d 604, 609 (9th Cir. 1992). Defendants move to amend the scheduling order because defense counsel has a scheduling conflict with the current trial date. The Court finds good cause and will grant Defendants' request.

1 Good cause having been shown the amended scheduling order filed on September 29, 2011,
2 is HEREBY AMENDED as follows:

- 3 1. The telephonic trial confirmation scheduled for March 19, 2012, and the trial set for
4 May 1, 2012, are VACATED;
- 5 2. This matter is set for telephonic trial confirmation hearing before the Honorable
6 Anthony W. Ishii on **May 14, 2012, at 3:00 p.m.** in Courtroom 2;
- 7 3. This matter is set for jury trial before the Honorable Anthony W. Ishii on **June 26,**
8 **2012, at 8:30 a.m.** in Courtroom 2;
- 9 4. Counsel for Defendants is required to arrange for the participation of Plaintiff in the
10 telephonic trial confirmation hearing and to initiate the telephonic hearing at **(559)**
11 **499-5669;** and
- 12 5. All other established deadlines in this action shall remain unchanged.

13 IT IS SO ORDERED.

14 **Dated: November 9, 2011**

/s/ **Barbara A. McAuliffe**
UNITED STATES MAGISTRATE JUDGE