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**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

RUSSELL MARTIN,

CASE NO. 1:06-cv-00906-BAM PC

Plaintiff,

ORDER GRANTING DEFENDANT’S MOTION  
TO AMEND THE DISCOVERY AND  
SCHEDULING ORDER

v.

BRYANT, et al.,

(ECF No. 70)

Defendants.

Amended Dispositive Motion Deadline: February 24, 2012

Plaintiff Russell Martin (“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 October 24, 2011, a discovery and scheduling order issued opening discovery and setting January 20, 2012, as the dispositive motion deadline for this action. On January 10, 2012, Defendant Bryant filed a motion requesting modification of the scheduling order to extend the dispositive motion deadline.

A court may modify a scheduling order for good cause. Fed.R.Civ.P 16(b)(4). This good cause standard “primarily considers the diligence of the party seeking the amendment.” Johnson v. Mammoth Recreations, Inc., 975 F.2d 604, 609 (9th Cir. 1992). To establish good cause, the party seeking the modification of a scheduling order must generally show that even with the exercise of due diligence, they cannot meet the requirement of the order. Id.

Defendant seeks an extension of the dispositive motion deadline to February 24, 2012. Defendant requests an extension because Plaintiff’s deposition transcript has been forwarded to him for review. The deposition testimony will be used to support Defendant’s motion for summary judgment and the transcript will not be available prior to the current deadline.

