

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

6 Plaintiff seeks a ninety-day extension of the discovery deadline which was established by the
7 court's scheduling order of September 7, 2011. (Doc. 73.) The current deadline for the parties to
8 complete discovery, including motions to compel, is December 15, 2011. Plaintiff requests an extension
9 of the deadline because, despite his diligence, he has been unable to complete discovery. Plaintiff cites
10 delays caused by Defendants’ inadequate responses to his interrogatories, and extensions of time
11 requested by Defendants to respond to Plaintiff’s interrogatories and other discovery requests.
12 (Plaintiff’s Declaration, Doc. 85, ¶¶3-6.) Plaintiff also notes that he filed a motion to compel which
13 remains pending on the court’s calendar.

14 Defendants request sixty days in which to depose Plaintiff, in light of the fact that defendant
15 Aspetia was recently served with process and recently answered the Second Amended Complaint.
16 Defendants argue that the scheduling order should be modified to allow defendant Aspetia ample time
17 to participate in discovery.

18 The court finds that good cause has been presented by Plaintiff and Defendants to modify the
19 scheduling order. Therefore, IT IS HEREBY ORDERED that:

- 20 1. Plaintiff’s motion to extend the discovery deadline in this action, is GRANTED;
- 21 2. Defendants motion to modify the court’s scheduling order of September 7, 2011, is
22 GRANTED;
- 23 3. The deadline for all parties to this action to complete discovery, including motions to
24 compel, is extended to **March 15, 2012**;
- 25 4. The deadline for all parties to this action to file pretrial dispositive motions is extended
26 to **May 16, 2012**; and

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5. All other provisions of the court's scheduling order of September 7, 2011, remain the same.

IT IS SO ORDERED.

Dated: December 8, 2011

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE