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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

BARRY LAMON,

Plaintiff,

v.

JOHN TILTON, et al.,

Defendants.

CASE NO. 1:07-cv-00493-AWI-DLB (PC)

ORDER GRANTING MOTION TO MODIFY SCHEDULING ORDER

(Doc. 94)

Amended pleadings deadline - 06/30/2010
Discovery cut-off date: 08/30/2010
Dispositive motion deadline: 11/08/2010

ORDER REQUIRING PLAINTIFF TO FILE OPPOSITION TO DEFENDANTS' MOTION TO DISMISS BY MAY 3, 2010

Plaintiff Barry Lamon ("Plaintiff") is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. This action is proceeding on Plaintiff's third amended complaint against Defendants Luna, Price, Wilber¹, Vikjord, Aspieda, Magvass, Vanzant, Hamilton, Cortez, Frescura, Elize, Alvarez, and Hernandez for violation of the First and Eighth Amendments. Pending before the Court is Plaintiff's ex parte motion to modify the scheduling order.

On January 19, 2010, Plaintiff filed an ex parte motion to modify the scheduling order. Plaintiff states that on November 19, 2009, he was temporarily transferred to California State Prison-Sacramento, from California State Prison-Corcoran, in preparation for trial in the case of Barry Lamon v. Lytle, et al., Case No. 2:03-cv-00423-AK (E.D. Cal.).² Plaintiff states that he

¹ Defendant Wilber has yet to appear in this action.

² The Court takes judicial notice of the case.

1 was transferred to CSP-Sacramento without any of his legal materials pertaining to this case.
2 Plaintiff states that he is receiving his mail two to three weeks after it is sent. Plaintiff states that
3 trial in the Lamon v. Lytle action will not start until March 29, 2010. Plaintiff requests that the
4 Court hold these proceedings in abeyance for sixty days.³

5 Requests to modify the scheduling order are governed by Federal Rule of Civil Procedure
6 16(b). Plaintiff has demonstrated good cause for his request. Accordingly, it is HEREBY
7 ORDERED that the Court's October 30, 2009 scheduling order is modified as follows: the
8 deadline to amend pleadings is June 30, 2010; the discovery cut-off date is August 30, 2010; and
9 the dispositive motion deadline is November 8, 2010.⁴

10 On December 30, 2009, Defendants filed a motion to dismiss. Plaintiff did not file an
11 opposition within 21 days of the date of service of Defendants' motion. However, based on the
12 foregoing, the Court finds that Plaintiff should be granted an extension of time to file his
13 opposition. Accordingly, it is HEREBY ORDERED that Plaintiff is to file his opposition to
14 Defendants' motion to dismiss by May 3, 2010.

15 IT IS SO ORDERED.

16 Dated: March 5, 2010

/s/ Dennis L. Beck
UNITED STATES MAGISTRATE JUDGE

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27 ³ Plaintiff's caption lists a request for 90 days. The Court finds 90 days to be unnecessary.

28 ⁴ The deadline for unenumerated Rule 12(b) motions will not be extended. Defendants already filed an unenumerated 12(b) motion to dismiss on December 30, 2009. (Doc. 90.)