

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

RAFAEL LOPEZ,

Plaintiff,

v.

DERRAL G. ADAMS, et al.,

Defendants.

CASE NO. 1:07-cv-00808-LJO-DLB PC

ORDER DENYING MOTION TO MODIFY
SCHEDULING ORDER

(Doc. 41)

Pending before the Court is Defendants’ motion to modify the Court’s scheduling order, filed June 8, 2010. (Doc. 41, Defs.’ Mot.) The Court set a dispositive motion deadline of June 14, 2010. (Doc. 39, Discovery and Scheduling Order filed August 4, 2009.) Defendants request a thirty-day extension of time, to July 14, 2010. (Mot. 6:10-12.) Defense counsel learned on June 3, 2010 that Defendant Masiel is on a pre-planned vacation until June 23, 2010. (Ellen Y. Hung Decl. ¶ 6.) Defendant will then work two consecutive shifts. (*Id.*) After June 24, Defendant will go on another pre-planned vacation until July 1. (*Id.*) Defendants contend that they will be severely prejudiced if this motion is not granted. (Mot. 5: 26-27.)

A scheduling order may be modified only for good cause and with the Court’s consent. Fed. R. Civ. P. 16(b)(4). Defendants have not presented good cause. The Court issued its scheduling order on August 4, 2009. Defendant Masiel’s vacation was pre-planned. Defense counsel thus has had ample opportunity to prepare. Defense counsel learning of Defendant Masiel’s vacation on June 3, 2010 indicates a lack of due diligence in preparing for the motion

1 for summary judgment.

2 Based on the foregoing, it is HEREBY ORDERED that Defendants' motion to modify
3 the scheduling order, file June 8, 2010, is DENIED.

4 IT IS SO ORDERED.

5 **Dated: June 9, 2010**

/s/ Dennis L. Beck
UNITED STATES MAGISTRATE JUDGE

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