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6 UNITED STATES DISTRICT COURT
7 EASTERN DISTRICT OF CALIFORNIA

8 KEITH DUANE ARLINE, JR.,

CASE NO. 1:07-cv-01097-LJO-GBC (PC)

9 Plaintiff,

ORDER GRANTING MOTION FOR
MODIFICATION OF SCHEDULING ORDER

10 v.

(ECF No. 76)

11 KEN CLARK,

12 Defendant.
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14 _____/

15 **ORDER**

16 Plaintiff Keith Duane Arline, Jr. ("Plaintiff") is a state prisoner proceeding pro se and
17 in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. On May 18, 2011,
18 Defendant filed a Motion to Modify Scheduling Order requesting a nunc pro tunc extension
19 of the May 16, 2011 dispositive motions deadline and that the Motion for Summary
20 Judgment (amended), filed May 19, 2011, be accepted by the Court. (ECF No. 76 & 79.)
21 Defendant states that the "amended" Motion for Summary Judgment merely corrects an
22 error, which was pointed out by Plaintiff on May 18, 2011. In the Motion for Summary
23 Judgment filed May 6, 2011 (ECF No. 70), Plaintiff's Eighth Amendment claim was
24 erroneously referred to as an Eighth Amendment retaliation claim. (*Id.*)

25 The dispositive motions deadline was May 16, 2011. (ECF No. 52.) Defendant filed
26 his Motion for Summary Judgment on May 6, 2011. (ECF No. 70.) Plaintiff pointed out in
27 the error in a filing he made on May 18, 2011. (ECF No. 75.) On the same day, Defendant
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1 filed this motion and an “amended” Motion for Summary Judgment.¹ (ECF No. 76 & 77.)

2 For good cause shown, Defendant’s Motion for Modification of Scheduling Order is
3 GRANTED. Defendant’s Motion for Summary Judgment filed May 19, 2011 (ECF No. 79)
4 is accepted as timely.

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8 IT IS SO ORDERED.

9 Dated: May 23, 2011


UNITED STATES MAGISTRATE JUDGE

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28 ¹ Defendant’s simultaneously filed “Amended” Motion for Summary Judgment was rejected by the
Clerk one day after filing, May 19, 2011. (ECF No. 78.) Defendant refiled the pleading on May 19, 2011.
(ECF No. 79.)