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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

ISHMAEL DELANEY,  
Plaintiff,

v.

JAMES E. TILTON, et al.,  
Defendants.

Case No.: 1: 07-CV-1219 LJO DLB PC

ORDER ON MOTION TO MODIFY  
SCHEDULING ORDER

(Doc. 67)

Scheduling Conference: May 11, 2009 at 9:00 a.m.  
before the Honorable Dennis L. Beck in Courtroom  
9

Plaintiff Ishmael Delaney ("Plaintiff"), a state prisoner, has filed this civil rights action seeking relief under 42 U.S.C. § 1983. On January 8, 2009, Plaintiff filed a motion to modify the Scheduling Order/Discovery Order. (Doc. 67). Defendant Yates filed an opposition on January 12, 2009, and Plaintiff filed a reply on January 20, 2009. (Docs. 69, 70). Plaintiff seeks an extension of the amended pleadings deadline, discovery deadline, and the dispositive motion deadline.

This matter was heard on February 6, 2009 before the undersigned, with counsel for defendant Yates appearing and counsel for Plaintiff and counsel for defendant Ramirez Jr. appearing telephonically.

Modification of the pretrial scheduling order requires a showing of good cause. Fed. R. Civ. P. 16(b). "The schedule may be modified 'if it cannot reasonably be met despite the diligence of the party seeking the extension.'" Zivkovic v. Southern California Edison Co., 302 F.3d 1080, 1087

1 (9th Cir. 2002) (quoting Johnson v. Mammoth Recreations, Inc., 975 F.2d 604, 607 (9th Cir. 1992)).  
2 “If the party seeking the modification ‘was not diligent, the inquiry should end’ and the motion to  
3 modify should not be granted.” Id.

4 Good cause having been found, the motion is GRANTED. Plaintiff is granted an extension  
5 of time, up to and including February 23, 2009, to file an amended complaint. As discussed at the  
6 hearing, defendant Yates has been dismissed from this action and Plaintiff may not re-allege  
7 Plaintiff’s claims against him in the amended complaint.

8 This matter is set for scheduling conference on May 11, 2009 at 9:00 a.m. before the  
9 undersigned to set the discovery and dispositive motion deadlines.

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11 IT IS SO ORDERED.

12 **Dated: February 9, 2009**

/s/ Dennis L. Beck  
UNITED STATES MAGISTRATE JUDGE

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