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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
FRESNO DIVISION**

JAMES E. BRYANT,

Plaintiff,

vs.

M. BAIREES,

Defendant

Civil No. 1:08cv01165-MJL(PCL)

**ORDER MODIFYING BRIEFING
SCHEDULE REGARDING CROSS-
MOTION FOR SUMMARY
JUDGMENT AND REFERRING
MATTER TO THE MAGISTRATE
JUDGE FOR DECISION**

On February 22, 2010 Defendant filed a Motion to Modify Scheduling Order (“Motion”). Pursuant to Federal Rule of Civil Procedure 16(b)(4), Defendant requests to continue the motion cut-off date (including the due date for his cross-motion for summary judgment), discovery dates, the Mandatory Settlement Conference and the Final Pretrial Conference because of the difficulties he has encountered in the discovery process.

In the January 5, 2010 Order, this court set March 1, 2010 as the due date for Defendant’s cross-motion for summary judgment, as well as due dates for the opposition and reply papers related to the cross-motion. Based on the representations in Defendant’s Motion, the due dates pertaining to the cross-motion for summary judgment are hereby **VACATED**. Defendant shall file a motion for summary judgment, if any, no later than the motion cut-off date to be determined by Magistrate Judge Peter C. Lewis. In light of the delay, the court will not wait to address Plaintiff’s pending

1 fully briefed summary judgment motion. It will be considered independently of any summary
2 judgment motion Defendant may file in the future.

3 Defendant's requests are non-dispositive discovery and other pretrial case management
4 matters. Accordingly, the Motion is **REFERRED** to Magistrate Judge Peter C. Lewis for decision
5 pursuant to the February 11, 2010 order of this court and 28 U.S.C. Section 636(b)(1)(A).

6 Based on the foregoing, **IT IS HEREBY ORDERED** as follows:

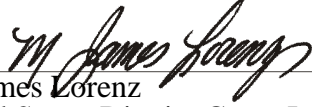
7 1. The briefing schedule on Defendant's cross-motion for summary judgment set forth in the
8 January 5, 2010 order of this court are hereby **VACATED**.

9 2. Plaintiff's pending summary judgment motion will be considered independently of any
10 summary judgment Defendant may file in the future.

11 3. Defendant's Motion is **REFERRED** to Magistrate Judge Peter C. Lewis for decision.

12 **IT IS SO ORDERED.**

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14 DATED: March 3, 2010

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16 M. James Lorenz
17 United States District Court Judge
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