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7	UNITED STATES DISTRICT COURT
8	EASTERN DISTRICT COURT EASTERN DISTRICT OF CALIFORNIA
10	EASTERN DISTRICT OF CALIFORNIA
11	LATWAHN McELROY, 1:08-cv-01221-LJO-GSA-PC
12	Plaintiff, ORDER DENYING DEFENDANTS'
13	REQUEST TO RESET THE TRIAL DATE, v. WITHOUT PREJUDICE TO RENEW WITHIN
14	THREE COURT DAYS (Doc. 147.)
15	
16	Defendants.
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18	I. BACKGROUND
19	This case is scheduled for jury trial to commence on June 19, 2012 at 8:30 a.m. before the
20	undersigned. On June 7, 2012, Defendants filed a request to reset the trial date, fewer than two
21	weeks before the trial. (Doc. 147.)
22	II. REQUEST TO RESET TRIAL
23	Modification of a scheduling order requires a showing of good cause and the judge's consent.
24	Fed. R. Civ. P. 16(b). This good cause standard "primarily considers the diligence of the party
25	seeking the amendment." Johnson v. Mammoth Recreations, Inc., 975 F.2d 604, 609 (9th Cir.
26	1992).
27	Defendants request that the June 19, 2012 trial date in this action be reset due to Defendant
28	Diaz's vacation plans which conflict with the date of trial. On June 6, 2012, defense counsel

(PC) McElroy v. Cox et al

Doc. 148

received a phone call from Defendant Diaz (Stinnett), informing counsel that she will be unable to attend trial on June 19, 2012 because of her vacation plans. (Declaration of Phillip A. Arthur, Doc. 147 at ¶3.) Defendant Diaz's vacation, scheduled for June 17-23, 2012, was pre-planned in February 2012. (Id. at ¶¶3, 4.) Defendants argue that the trial should be continued because Defendant Diaz's attendance and testimony at trial is essential to providing Defendants with a fair defense in this case.

Defendants have not explained why this scheduling conflict has been brought to the Court's attention less than two weeks before trial. Defendants were informed of the trial date, and participated in its selection more than three months ago. The Court is not inclined to grant a continuance without a showing of good cause, an element of which is the timeliness of the bringing of the motion. Therefore, Defendants' request shall be denied, without prejudice to renewal of the motion within three days.

III. CONCLUSION

Based on the foregoing, IT IS HEREBY ORDERED that Defendants' request to reset the trial date is DENIED, without prejudice to renewal of the request within three court days. Obviously good cause must exist and be stated for the Court to consider the motion.

IT IS SO ORDERED.

Dated: June 7, 2012 /s/ Lawrence J. O'Neill
UNITED STATES DISTRICT JUDGE

¹On March 9, 2012, the Court entered a Fourth Scheduling Order, establishing the date of June 19, 2012 for commencement of trial. (Doc. 105.)