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IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF CALIFORNIA

RICHARD S. KINDRED,

1:08-cv-01321-AWI-GSA-PC

Plaintiff,

ORDER GRANTING DEFENDANT’S MOTION
AND EXTENDING DEADLINES FOR ALL
PARTIES TO THIS ACTION
(Doc. 44.)

vs.

CALIFORNIA DEPARTMENT
OF MENTAL HEALTH, et al.,

New Discovery Cut-Off Date: 10/15/2012

Defendants.

New Dispositive Motion Deadline: 12/17/2012

_____ /

Plaintiff is a civil detainee proceeding pro se in this civil rights action pursuant to 42 U.S.C. § 1983. This case is presently in the discovery phase.

On May 29, 2012, defendant Devine (“Defendant”) filed a motion for stay of the discovery schedule for this action, or in the alternative, for modification of the Court’s scheduling order. (Doc. 44.) Specifically, Defendant requests additional time to conduct discovery, in light of the fact that service upon one of the defendants is currently pending.

Modification of the Court’s scheduling order requires a showing of good cause, Fed. R. Civ. P. 16(b), and good cause requires a showing of due diligence, Johnson v. Mammoth Recreations, Inc., 975 F.2d 604, 609 (9th Cir. 1992). To establish good cause, the party seeking

1 the modification of a scheduling order must generally show that even with the exercise of due
2 diligence, they cannot meet the requirement of the order. Id. A party may obtain relief from
3 the court's deadline date for discovery by demonstrating good cause for allowing further
4 discovery. Fed. R. Civ. P. 16(b)(4).

5 The Court issued a scheduling order on October 20, 2011, establishing a deadline of
6 June 20, 2011 for the parties to complete discovery. (Doc. 38.) Defendant argues that
7 discovery should be stayed or extended, because service upon one of the defendants is currently
8 pending, and it is in the interest of judicial economy to coordinate the discovery and dispositive
9 motion deadlines for each defendant. Counsel for Defendant asserts that she canceled the
10 deposition scheduled for Plaintiff in anticipation that counsel could represent both defendants at
11 a rescheduled deposition after service is completed, rather than conduct two separate
12 depositions. (Declaration of Lisa Tillman, Doc. 44-1 at ¶¶4-7.) Counsel also asserts that due to
13 her busy schedule, she is unable to complete discovery in this matter by the current deadline.
14 (Id. at ¶¶8-11.)

15 Defendant has have presented good cause for extending the discovery deadline. Good
16 cause appearing, the deadline for completion of all discovery, including the filing of motions to
17 compel, shall be extended for all parties to this action to **October 15, 2012**. In light of this
18 extension, the deadline for filing pretrial dispositive motions shall also be extended for all
19 parties to this action to **December 17, 2012**. The parties are advised to refer back to the
20 Court's scheduling order of October 20, 2011, for instruction about conducting discovery.
21 (Doc. 38.) All other provisions of the Court's scheduling order shall remain the same.

22 Accordingly, IT IS HEREBY ORDERED that:

- 23 1. Defendant's motion to modify the Court's scheduling order of October 20, 2011,
24 is GRANTED for all parties to this action;
- 25 2. All discovery, including the filing of motions to compel, formerly to be
26 completed by June 20, 2012, shall be completed by **October 15, 2012**;

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- 3. The deadline for serving and filing pre-trial dispositive motions, formerly August 30, 2012, is extended to **December 17, 2012**; and
- 4. All other provisions of the Court's scheduling order remain the same.

IT IS SO ORDERED.

Dated: May 30, 2012

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE