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**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

LYNN CHARLES BEYETT,

Plaintiff,

v.

V. O'BRIEN, et al.,

Defendants.

CASE NO. 1:08-CV-01367-DLB PC

ORDER GRANTING DEFENDANTS'  
MOTION FOR MODIFICATION OF  
SCHEDULING ORDER

(DOC. 47)

Dispositive Motion Deadline: August 8, 2011

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Plaintiff Lynn Charles Beyett ("Plaintiff") is a prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. This action is proceeding against Defendants V. O'Brien and D. Ragan. Pending before the Court is Defendants' motion for modification of the scheduling order, filed July 6, 2011. Doc. 47.

On May 6, 2011, the Court set a dispositive motion filing deadline of July 6, 2011. Defendants seek a modification up to and including August 8, 2011. Defendants' counsel contends that because of his involvement in opposing a motion for summary judgment, attending mediation, and filing a reply brief in other actions, he was unable to meet the deadline in this action.

The decision to modify a scheduling order is within the broad discretion of the district court. *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 607 (9th Cir. 1992) (quoting *Miller v. Safeco Title Ins. Co.*, 758 F.2d 364, 369 (9th Cir. 1985)). Pursuant to Federal Rule of Civil Procedure 16, a pretrial scheduling order "shall not be modified except upon a showing of good cause," and leave of court. Fed. R. Civ. P. 16(b)(4); *Zivkovic v. S. Cal. Edison Co.*, 302 F.3d

1 1080, 1087-88 (9th Cir. 2002). Although “the existence or degree of prejudice to the party  
2 opposing the modification might supply additional reasons to deny a motion, the focus of the  
3 inquiry is upon the moving party’s reasons for seeking modification.” *Johnson*, 975 F.2d at 609.  
4 The Court finds good cause has been presented. Any further motion to modify the schedule is  
5 heavily disfavored.

6 Good cause having been presented, it is HEREBY ORDERED that Defendants’ motion  
7 for modification of the scheduling order, filed July 6, 2011, is GRANTED. The deadline for  
8 filing a dispositive motion is August 8, 2011.

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10 IT IS SO ORDERED.

11 Dated: July 28, 2011

/s/ Dennis L. Beck  
UNITED STATES MAGISTRATE JUDGE

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