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

TIMOTHY FENSTERMACHER,

CASE NO. 1:08-cv-01447-SKO PC

Plaintiff,

ORDER DENYING MODIFICATION OF THE  
DISCOVERY AND SCHEDULING ORDER

v.

(Doc. #53)

SAMUEL MORENO, et al.,

Defendants.

On October 7, 2010, Plaintiff Timothy Fenstermacher (“Plaintiff”) and Defendant Samuel Moreno (“Defendant”) submitted a stipulation and request for modification of the discovery and scheduling order. (Doc. #53.) Both parties request that the deadlines for conducting discovery be extended in light of the settlement conference scheduled for December 15, 2010.

The discovery and scheduling order issued on April 1, 2010, set the deadline for completing all discovery on December 1, 2010, and set the deadline for filing dispositive pre-trial motions on February 8, 2011. (Doc. #38.) Plaintiff and Defendant request that the deadline for completing all discovery be extended to June 1, 2011, and request the deadline for filing dispositive pre-trial motions be extended to August 8, 2011. Both parties further request that the pleadings associated with Plaintiff’s July 19, 2010, motion requesting the disclosure of certain personnel records and Plaintiff’s September 10, 2010, motion to quash or modify a subpoena duces tecum be due sometime after the December 15, 2010, settlement conference.

The parties' only stated reason for extending the deadlines is the December 15, 2010, settlement conference. Presumably, the parties wish to extend the discovery deadlines to avoid engaging in unnecessary discovery in the event this case does settle on December 15, 2010. The

1 Court will not extend this litigation by six months based on the possibility that the case may settle  
2 at the settlement conference. Accordingly, the Court will deny the parties' request to modify the  
3 scheduling order. To the extent that the parties wish to avoid engaging in unnecessary discovery,  
4 they are advised to request an earlier settlement conference date or to attempt to reach a settlement  
5 before the current settlement conference date.

6 Defendant Moreno and Defendant Robles were ordered to file an opposition to Plaintiff's  
7 July 19, 2010, motion requesting the disclosure of certain personnel records by October 18, 2010.  
8 (Doc. #47.) In light of the Court's ruling on the parties' request to extend that deadline, Defendants  
9 Moreno and Robles are ordered to file any opposition within twenty (20) days of the date of service  
10 of this order.

11 The Court further notes that although Defendant Moreno has filed an opposition to Plaintiff's  
12 September 10, 2010, motion to quash or modify the subpoena duces tecum, Defendant Robles has  
13 not yet filed an opposition or a statement of no opposition and has not joined Defendant Moreno's  
14 opposition. The Court will order Defendant Robles to file an opposition or a statement of no  
15 opposition to Plaintiff's September 10, 2010, motion within twenty (20) days of the date of service  
16 of this order.

17 Accordingly, it is HEREBY ORDERED that:

- 18 1. The parties' stipulation and request to modify the discovery and scheduling order is  
19 DENIED;
- 20 2. Defendants are ordered to file an opposition or a statement of no opposition to  
21 Plaintiff's July 19, 2010, motion requesting certain personnel records within twenty  
22 (20) days of the date of service of this order; and
- 23 3. Defendant Robles is ordered to file an opposition or a statement of no opposition to  
24 Plaintiff's September 10, 2010, motion to quash or modify the subpoena duces tecum  
25 within twenty (20) days of the date of service of this order.

26 IT IS SO ORDERED.

27 **Dated: October 18, 2010**

28 **/s/ Sheila K. Oberto**  
**UNITED STATES MAGISTRATE JUDGE**