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**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

TIMOTHY FENSTERMACHER,

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

Plaintiff,

ORDER PARTIALLY GRANTING MOTION

v.

(Doc. 62)

SAMUEL MORENO, et al.,

Defendants.

Plaintiff Timothy Fenstermacher (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. On November 3, 2010, Plaintiff filed a motion requesting a modification of the scheduling and discovery order and an extension of the deadline for conducting discovery and filing dispositive motions. (Doc. #62.) Defendants filed a statement of non-opposition to Plaintiff’s motion. (Doc. #70, 72.)

Plaintiff argues that an extension of the discovery deadline is warranted because Defendants have not provided adequate responses to Plaintiff’s discovery requests. Plaintiff further argues that an extension is warranted because of a settlement conference scheduled for December 15, 2010. Plaintiff also requests an extension of the dispositive motion deadline.

The Court will not extend the discovery deadline or the dispositive motion deadline because the parties are scheduled for a settlement conference. Parties may proceed with litigation and attempt to settle it at the same time.

The Court will only extend the discovery deadline to resolve the discovery disputes pending before the Court as of December 1, 2010. The Court will not permit the parties to submit new

1 discovery requests or file motions to compel regarding any new discovery disputes. The Court has  
2 issued an order concurrently with this order resolving Plaintiff's September 10, 2010 order to quash  
3 Defendant Moreno's subpoena. The only remaining discovery issues are Plaintiff's motions  
4 concerning his requests for documents and his request for a subpoena duces tecum. The Court has  
5 also issued an order concurrently with this order directing the parties to meet and confer. If the  
6 discovery dispute is not resolved at the meeting, Plaintiff may file a renewed motion to compel  
7 within the deadlines set forth in that order.

8 The Court will deny Plaintiff's request to extend the deadline for filing dispositive motions.  
9 The current deadline for filing dispositive motions is February 8, 2011. Plaintiff may re-file a  
10 request to extend the deadline after the parties meet and confer. However, such motion must  
11 persuasively demonstrate why Plaintiff is unable to meet the current February 8, 2011 deadline.

12 Based on the foregoing, it is HEREBY ORDERED that:

- 13 1. Plaintiff's motion for a modification of the discovery and scheduling order is  
14 PARTIALLY GRANTED;
- 15 2. The deadline for conducting discovery is extended for the limited purpose of  
16 resolving the discovery disputes pending before the Court as of December 1, 2010;
- 17 3. Plaintiff's request for an extension of the deadline for filing dispositive motions is  
18 DENIED without prejudice.

19  
20 IT IS SO ORDERED.

21 **Dated: December 6, 2010**

22 /s/ Sheila K. Oberto  
23 UNITED STATES MAGISTRATE JUDGE  
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