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

IRVING C. HUMPHREY,
Plaintiff,
vs.
JAMES A. YATES,
Defendant.

Case No. 1:09-cv-00075 LJO JLT (PC)

ORDER GRANTING MOTION TO MODIFY
THE SCHEDULING ORDER

(Doc. 50)

_____ /

Plaintiff is a state prisoner proceeding pro se with a civil rights action pursuant to 42 U.S.C. § 1983. Pursuant to the Court’s scheduling order filed April 21, 2010, dispositive motions are due in this action on or before February 28, 2011. (Doc. 23.) On February 24, 2011, Defendant filed a motion to modify the dispositive motion deadline to, and including, April 28, 2011. (Doc. 50.) Defense counsel explains that Defendant has recently retired from Pleasant Valley State Prison and counsel has yet to receive Defendant’s new contact information. (Doc. 50-1 at 2.) Defense counsel therefore requests sixty days to obtain Defendant’s contact information, depose Defendant, and to file a dispositive motion in this action. (Id.)

The Court may modify a scheduling order for good cause. Fed. R. Civ. P. 16(b)(4). Good cause exists where the party seeking modification is able to show that despite its due diligence, the party is unable to meet the deadlines set by the Court. Johnson v. Mammoth Recreations, Inc., 975 F.2d 604, 609 (9th Cir. 1992). Here, the Court finds that the circumstances – Defendant’s recent

1 retirement and counsel's inability to contact Defendant – constitute good cause.

2 Accordingly, it is **HEREBY ORDERED** that:

- 3 1. Defendant's February 24, 2011 motion to modify the scheduling order (Doc. 50) is
4 **GRANTED**; and
5 2. The dispositive motion deadline in this action is extended until April 28, 2011.

6
7 IT IS SO ORDERED.

8 Dated: February 25, 2011

/s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE