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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ALLEN B. WILLIAMS,)	CASE NO. 1:09-cv-00468 LJO JLT PC
)	
Plaintiff,)	ORDER VACATING TRIAL DATE; TRIAL
)	CONFIRMATION DATE AND ALL
v.)	DEADLINES SET FORTH IN THE THIRD
)	SCHEDULING ORDER;
MATTHEW CATE, et al.,)	
)	ORDER GRANTING MOTION TO AMEND
Defendant.)	DISCOVERY AND SCHEDULING ORDER
)	
_____)	(Docs. 102, 103)

I. Procedural History

Plaintiff Allen B. Williams (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 4 2 U.S.C. § 1983. On December 29, 2011, the Court issued its Third Scheduling Order. (Doc. 99) Despite that this matter has been pending for nearly three years, Plaintiff now moves for an order amending the Third Scheduling Order and continuing the trial date, to allow identification and location of key witnesses and other pretrial preparation. (Doc. 103) Likewise, Defendants request that the trial date be vacated to allow the filing of a

1 dispositive motion¹ and because Defendant Bradley has been deployed to Afghanistan on a year-
2 long contract. (Doc. 102) Plaintiff reports that he has spoken with defendants counsel about
3 Defendants' request to continue the trial date and Plaintiff concurs with this request. (Doc. 103 at 2)

4 **ORDER**

5 In light of Defendant Bradley's military deployment, the Court **ORDERS**:

- 6 1. The trial date, currently set on March 6, 2012 is **VACATED**;
- 7 2. The trial confirmation hearing, currently set on February 3, 2012 is **VACATED**;
- 8 3. All deadlines set forth in the Third Scheduling Order are **VACATED**;
- 9 4. Defendants' request to amend the Discovery and Scheduling Order is **GRANTED**.
10 Any dispositive motion SHALL be filed no later than February 24, 2012;
- 11 5. Defendants **SHALL** file a status report related to Defendant Bradley's military
12 service, including such details as when he is expected to return from his military
13 duty and whatever other information is pertinent within **30 days** of service of this
14 order.

15 IT IS SO ORDERED.

16 Dated: January 12, 2012

17 /s/ Jennifer L. Thurston
18 UNITED STATES MAGISTRATE JUDGE

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26 ¹Though the motion concludes that good cause has been shown to modify the scheduling order to allow the
27 late filing of a dispositive motion, this conclusion is supported by the mere fact that the currently assigned attorney
28 has realized that the previously assigned attorney had not filed such a motion. This is not good cause as, clearly, this
failure is nothing short of a failure to exercise due diligence. Johnson v. Mammoth recreations, Inc., 975 F.2d 604,
609 (9th Cir. 1992). However, because the Court cannot proceed while Defendant Bradley is on active military duty,
the Court will permit a short amount of time to file a dispositive motion.