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

FRANCISCO GIL,	)	1:09cv00917 DLB (PC)
	)	
Plaintiff,	)	ORDER DENYING PLAINTIFF’S
	)	MOTION REGARDING DISCOVERY
v.	)	
	)	
J. WOODEND,	)	(Document 95)
	)	
Defendant.	)	
	)	
	)	

Plaintiff Francisco Gil (“Plaintiff”) is proceeding pro se and in forma pauperis in this civil rights action, filed on May 26, 2009. The action is proceeding on Plaintiff’s Third Amended Complaint against Defendant J. Woodend for violation of due process in connection with a Rules Violation Report hearing. Findings and Recommendations to grant Defendant’s Motion for Summary Judgment are currently pending.

On August 14, 2013, Plaintiff filed a motion requesting that the Court issue subpoenas to approximately 22 non-parties, including judges at both the state and federal level.

**DISCUSSION**

Modification of the pretrial scheduling order requires a showing of good cause. Fed. R. Civ. P. 16(b)(4). “The schedule may be modified ‘if it cannot reasonably be met despite the diligence of the party seeking the extension.’” Zivkovic v. Southern California Edison Co., 302 F.3d 1080, 1087 (9th Cir. 2002) (quoting Johnson v. Mammoth Recreations, Inc., 975 F.2d 604, 607 (9th Cir. 1992)). “If

1 the party seeking the modification ‘was not diligent, the inquiry should end’ and the motion to modify  
2 should not be granted.” Id.

3 Here, discovery closed on November 14, 2012, after the Court granted Plaintiff’s motion to  
4 extend the deadline from September 30, 2012. Accordingly, Plaintiff’s motion requesting additional  
5 discovery is subject to the “good cause” requirement of Rule 16(b).

6 Plaintiff does not present *any* explanation as to why he seeks discovery at this late date, nor  
7 does he acknowledge the fact that the discovery deadline has passed and Findings and  
8 Recommendations are pending. Plaintiff states that Defendant has “violated the discovery process”  
9 and he now requests numerous subpoenas duces tecum. However, the remedy to discovery violations  
10 would have been timely motions to compel.

11 Accordingly, based on the above, Plaintiff’s motion is DENIED.

12  
13 IT IS SO ORDERED.

14 Dated: August 26, 2013

/s/ Dennis L. Beck  
15 UNITED STATES MAGISTRATE JUDGE