



1 forty-five days after the dispositive motion deadline. He also requested permission to file motions to  
2 compel and motions for production. (ECF No. 82.)

3 On March 20, 2014, the Court granted Defendants' motion to extend the dispositive motion  
4 deadline. However, the Court denied Plaintiff's request to extend the discovery deadline and file  
5 discovery motions. The Court informed Plaintiff that he was not precluded from requesting  
6 modification of the discovery and scheduling order to extend the discovery deadline. (ECF No. 83.)

7 On April 3, 2014, Plaintiff filed a motion requesting modification of the discovery and  
8 scheduling order to extend the discovery deadline an additional thirty days. (ECF No. 84.) On May  
9 14, 2014, the Court granted Plaintiff's request and extended the discovery deadline an additional sixty  
10 (60) days to allow Plaintiff to serve his requests for production of documents and to file any necessary  
11 motions to compel production. The dispositive motion deadline was extended a corresponding sixty  
12 (60) days. (ECF No. 86.) Pursuant to the Court's order, the discovery deadline expired on July 14,  
13 2014, and the dispositive motion deadline is August 12, 2014.

14 On June 2, 2014, Plaintiff filed a motion for an order compelling further responses to certain  
15 requests for production of documents. Fed. R. Civ. P. 37(a). Defendants opposed the motion on June  
16 16, 2014. (ECF No. 88.) Plaintiff's reply was due on or before June 26, 2014. Local Rule 230(l)  
17 (reply due seven (7) days after the opposition has been filed in CM/ECF); Fed. R. Civ. P. 6(d) (three  
18 (3) days added for service by mail). Plaintiff did not file a timely reply. The motion was deemed  
19 submitted and the Court denied Plaintiff's motion to compel on July 21, 2014. (ECF No. 91.)

20 On July 28, 2014, Plaintiff filed the instant motion requesting that the Court reopen discovery  
21 and extend the discovery deadline an additional sixty (60) days to September 23, 2014. (ECF No. 92.)  
22 The Court finds a response unnecessary and the motion is deemed submitted.<sup>1</sup> Local Rule 230(l).

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27 <sup>1</sup> Defendants will not be prejudiced by an inability to respond as Plaintiff has failed to establish good cause to  
28 reopen discovery.

1           **II. Motion to Reopen Discovery**

2           Plaintiff seeks to reopen discovery and extend the discovery deadline in this matter. In  
3           essence, Plaintiff’s motion is a request to modify the Discovery and Scheduling Order to extend the  
4           discovery deadline.

5                   A. Relevant Legal Standard

6           Pursuant to Rule 16(b), a scheduling order “may be modified only for good cause and with the  
7           judge’s consent.” Fed. R. Civ. P. 16(b)(4). The “good cause” standard “primarily considers the  
8           diligence of the party seeking the amendment.” Johnson v. Mammoth Recreations, Inc., 975 F.2d 604,  
9           609 (9th Cir. 1992). The court may modify the scheduling order “if it cannot reasonably be met  
10          despite the diligence of the party seeking the extension.” Id. If the party was not diligent, the inquiry  
11          should end. Id.

12                   B. Discussion

13          Plaintiff appears to seek the reopening of discovery for two purposes: (1) to allow him an  
14          opportunity to submit a reply in support of his motion to compel filed on June 2, 2014; and (2) to serve  
15          additional interrogatories and request for admissions. Neither of these purposes supports the  
16          reopening of discovery.

17          With regard to his reply, Plaintiff reports that he completed his reply on July 8, 2014, and  
18          could not make copies of it on July 9, 2014, because the law library was closed. (ECF No. 92, p. 3 and  
19          Ex. A.) As noted above, however, Plaintiff’s reply was due on or before June 26, 2014, well before he  
20          completed it. Plaintiff does not explain why he did not seek an extension of time before the expiration  
21          of deadline to file his reply or why he did not seek an extension of time between the filing deadline  
22          and the Court’s issuance of its order denying the motion to compel nearly a month later. There is no  
23          evidence that Plaintiff proceeded diligently in filing a timely reply or seeking an extension of time to  
24          file a reply.

25          With regard to service of additional discovery, Plaintiff reports that he received three responses  
26          to his requests for production of documents in the period of time between May 14 and July 14, 2014.  
27          Plaintiff contends that these responses were insufficient and lead to questions he needs to address via  
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1 interrogatories and admissions. (ECF No. 92, pp. 3-4.) Plaintiff has attached exhibits to his moving  
2 papers demonstrating that Defendants submitted a second supplemental response to Plaintiff's requests  
3 for production of documents on June 27, 2014, and a third supplemental response on July 14, 2014.  
4 (ECF No. 92, Ex. B.)

5 The Court previously denied Plaintiff's request to compel further responses to his requests for  
6 production of documents. Plaintiff does not explain why he waited nearly a month after receiving  
7 Defendants' second supplemental response to seek the reopening of discovery. Defendants (and  
8 Plaintiff) are under a continuing obligation throughout this action to supplement their responses to  
9 discovery in a timely manner if they learn that a response is incomplete or incorrect. Fed. R. Civ. P.  
10 26(e). This continuing obligation does not mandate the reopening of discovery. Plaintiff also does not  
11 identify the nature of the supplemental responses or demonstrate how they require service of  
12 additional interrogatories and requests for admissions. Plaintiff also fails to identify the proposed  
13 interrogatories and requests for admissions.

14 **III. Conclusion and Order**

15 For the reasons discussed, the Court does not find good cause to modify the scheduling order.  
16 Accordingly, Plaintiff's motion to reopen discovery, filed on July 28, 2014, is HEREBY DENIED.

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18 IT IS SO ORDERED.

19 Dated: July 31, 2014

/s/ Barbara A. McAuliffe  
UNITED STATES MAGISTRATE JUDGE