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

ANTHONY JOHNSON,)	Case No.: 1:09-cv-01264-AWI-BAM PC
)	
Plaintiff,)	ORDER GRANTING DEFENDANTS’ MOTION
)	TO MODIFY THE SCHEDULING ORDER
v.)	(ECF No. 96)
)	
L. GONZALEZ, et al.,)	
)	
Defendants.)	
)	
)	

I. Introduction

Plaintiff Anthony Johnson (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. This action proceeds on Plaintiff’s complaint, filed on July 21, 2009, against Defendants L. Gonzalez and A. Murrieta for excessive force in violation of the Eighth Amendment. On August 15, 2013, following remand by the Ninth Circuit Court of Appeals, the Court extended the dispositive motion deadline in this matter to November 1, 2013.

Currently before the Court is Defendants’ motion to modify the scheduling order filed on October 31, 2013. Defendants seek a brief extension of the dispositive motion deadline to November 15, 2013. The Court finds an opposition unnecessary and the motion is deemed submitted. Local Rule 230(l).

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II. Discussion

A. Legal Standard

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

B. Analysis

Defendants seek a fourteen-day extension of time to file their motion for summary judgment. Defense counsel explains that the brief extension is necessary because, despite his best efforts, he cannot complete Defendants’ motion for summary judgment by the November 1, 2013 deadline. Defense counsel details the myriad briefings and other deadlines that he has been required to meet in other cases during the time since the Court set the November 1 deadline. Defense counsel contends that the summary judgment motion will likely dispose of Plaintiff’s Eighth Amendment claims in this case.

Having considered Defendants’ moving papers, the Court finds that Defendants have been diligent in their efforts to litigate this case and, due to the caseload of their counsel, they require a short extension of time to complete the motion for summary judgment, which may dispose of Plaintiff’s claims. There is no indication that such extension will cause undue delay in the resolution of this matter or that it will result in prejudice to Plaintiff.

III. Conclusion and Order

For the reasons stated, Defendants’ motion to modify the scheduling order to extend the deadline for filing dispositive motions is GRANTED. Defendants shall file and serve their dispositive motion, if any, on or before November 15, 2013.

IT IS SO ORDERED.

Dated: November 1, 2013

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE

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