

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

JAVIER JIMENEZ,

Plaintiff,

vs.

S. ALCALA, et al.,

Defendants.

Case No. 1:09-cv-01359 JLT (PC)

ORDER GRANTING PLAINTIFF’S MOTION
FOR AN EXTENSION OF TIME

(Doc. 16)

_____ /

On March 31, 2011, Plaintiff filed a motion for an extension of time to file motions for the attendance of witnesses. (Doc. 16.) Pursuant to the Court’s second scheduling order issued March 15, 2011, motions for the attendance of witnesses are due no later than April 15, 2011. (Doc. 15.) However, Plaintiff indicates that he is unable to meet that deadline because he did not receive the Court’s second scheduling order until just recently on March 26, 2011, and Plaintiff is currently having difficulty locating certain prisoners whom he anticipates calling as witnesses. (Doc. 16 at 1.)

Pursuant to Federal Rule of Civil Procedure 16(b)(4), a pretrial scheduling order “may be modified only for good cause and with the judge’s consent.” Good cause exists where the party seeking modification demonstrates that it cannot meet the deadlines set forth in the court’s order despite the party’s diligence. Johnson v. Mammoth Recreations, 975 F.2d 604, 609 (9th Cir. 1992). “Although the existence or degree of prejudice to the party opposing the modification might supply

1 additional reasons to deny a motion, the focus of the inquiry is upon the moving party's reasons for
2 seeking modification. If that party was not diligent, the inquiry should end." Id. (internal citation
3 omitted). Here, given the circumstances presented by Plaintiff in his motion, the Court finds good
4 cause to modify the scheduling order in this case.

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

- 6 1. Plaintiff's March 31, 2011 motion for an extension of time to file motions for the
7 attendance of witnesses (Doc. 16) is **GRANTED**.
- 8 2. The Court's March 15, 2011 scheduling order is modified as follows:
 - 9 a. Motions for the attendance of witnesses, if any, must be filed on or before
10 May 16, 2011; and
 - 11 b. Oppositions, if any, must be filed on or before May 31, 2011.
- 12 3. No other dates set forth in the Court's March 15, 2011 scheduling order are affected
13 by this order.

14
15 IT IS SO ORDERED.

16 Dated: April 4, 2011

17 /s/ Jennifer L. Thurston
18 UNITED STATES MAGISTRATE JUDGE
19
20
21
22
23
24
25
26
27
28