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**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

RICHARD ERNEST ANAYA,  
Plaintiff,

v.

HERRINGTON, et al.,  
Defendants.

CASE NO. 1:09-CV-01653-AWI-DLB PC

ORDER GRANTING DEFENDANTS’  
MOTION AND VACATING DISCOVERY  
AND SCHEDULING ORDER (DOC. 66)

Plaintiff Richard Ernest Anaya (“Plaintiff”) is a prisoner in the custody of the California Department of Corrections and Rehabilitation (“CDCR”). Plaintiff is proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. Pending before the Court is Defendants’ motion to stay discovery, filed November 14, 2011. Doc. 66. The matter is submitted pursuant to Local Rule 230(l).

On April 15, 2011, the Court issued a Discovery and Scheduling Order. Doc. 40. This action was proceeding on Plaintiff’s second amended complaint. Plaintiff subsequently received leave to amend his complaint. On August 26, 2011, Plaintiff filed a third amended complaint. Doc. 54. On October 19, 2011, the Court screened Plaintiff’s complaint and recommended dismissal for failure to state a claim, with leave to amend. As of the date of this order, the Findings and Recommendations have not been resolved. Plaintiff filed his fourth amended complaint on November 3, 2011.

Defendants contend that until the Court has screened Plaintiff’s fourth amended complaint, they will not be able to respond properly to Plaintiff’s discovery requests.

1 Modification of the Court's schedule requires a showing of good cause. Fed. R. Civ. P. 16(b)(4).

2 The Court finds good cause to grant such a modification.

3 Accordingly, it is HEREBY ORDERED that

- 4 1. Defendants' motion, filed November 14, 2011, is GRANTED;
- 5 2. The Court's Discovery and Scheduling Order, issued April 15, 2011, is vacated.

6 A new discovery and scheduling order will be issued if necessary after the  
7 screening of Plaintiff's fourth amended complaint.

8 IT IS SO ORDERED.

9 **Dated: February 27, 2012**

/s/ Dennis L. Beck  
UNITED STATES MAGISTRATE JUDGE

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