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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

KEVIN E. FIELDS,

Plaintiff,

v.

MAURICE JUNIOUS, et al.,

Defendants.

CASE NO. 1:09-CV-01771-AWI-DLB PC

ORDER GRANTING DEFENDANTS’
SECOND MOTION FOR MODIFICATION
OF SCHEDULE

(DOC. 49)

Dispositive Motion Deadline: December 2,
2011

Plaintiff Kevin E. Fields (“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. This action is proceeding on Plaintiff’s complaint, filed October 8, 2009, against Defendants K. Foley, D. B. Hernandez, R. Magvas, S. Marsh, L. Molina, and J. Tucker for violation of the Eighth Amendment. Pending before the Court is Defendants’ second motion to modify the schedule, filed November 18, 2011. Doc. 45.

The decision to modify a scheduling order is within the broad discretion of the district court. *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 607 (9th Cir. 1992) (quoting *Miller v. Safeco Title Ins. Co.*, 758 F.2d 364, 369 (9th Cir. 1985)). Pursuant to Federal Rule of Civil Procedure 16, a pretrial scheduling order “shall not be modified except upon a showing of good cause,” and leave of court. Fed. R. Civ. P. 16(b)(4); *Zivkovic v. S. Cal. Edison Co.*, 302 F.3d 1080, 1087-88 (9th Cir. 2002). Although “the existence or degree of prejudice to the party opposing the modification might supply additional reasons to deny a motion, the focus of the

1 inquiry is upon the moving party's reasons for seeking modification." *Johnson*, 975 F.2d at 609.

2 Defendants seek a modification of the dispositive motion deadline from November 18,
3 2011 to December 2, 2011. Defendants request additional time to file the motion for summary
4 judgment because the Court did not grant the previous modification until November 9, 2011,
5 nine days prior to the deadline. The Court finds good cause. However, no further modification
6 will be granted.

7 Accordingly, it is HEREBY ORDERED that Defendants' motion for modification of the
8 schedule, filed November 18, 2011, is granted. The dispositive motion deadline is December 2,
9 2011.

10 IT IS SO ORDERED.

11 **Dated: November 28, 2011**

/s/ Dennis L. Beck
UNITED STATES MAGISTRATE JUDGE