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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

BILLY PHELPS,

Plaintiff,

v.

CHRISTIAN RAMOS

Defendant.

CASE NO. 1:09-cv-01925 AWI JLT (PC)

ORDER GRANTING REQUEST TO
MODIFY SCHEDULING ORDER

(Doc. 25)

Before the Court is Plaintiff's request to modify the scheduling order. (Doc. 25) Plaintiff requests a 20-day extension of time to complete discovery. Id. Plaintiff contends that "multiple lock downs and diverse prison program changes" have impacted his ability to complete discovery. Id.

Pursuant to Fed. R. Civ. P. 16(b)(3), district courts must enter scheduling orders to establish deadlines for, among other things, "to file motions" and "to complete discovery." A schedule may be modified only for good cause and only with the judge's consent. Fed. R. Civ. P. 16(b). A "scheduling conference order is not a frivolous piece of paper, idly entered, which can be cavalierly disregarded without peril." Johnson v. Mammoth Recreations, Inc., 975 F.2d 604, 610 (9th Cir. 1992).

Parties must "diligently attempt to adhere to that schedule throughout the subsequent course of the litigation." Jackson v. Laureate, Inc., 186 F.R.D. 605, 607 (E.D. Cal. 1999); see Marcum v.

1 Zimmer, 163 F.R.D. 250, 254 (S.D. W.Va. 1995). In part, “good cause” requires the parties to
2 demonstrate that “noncompliance with a Rule 16 deadline occurred or will occur, notwithstanding
3 her diligent efforts to comply, because of the development of matters which could not have been
4 reasonably foreseen or anticipated at the time of the Rule 16 Scheduling conference . . .” Jackson,
5 186 F.R.D. at 608.

6 Prison lock-downs, ordinarily, are not considered unusual circumstances to justify
7 modification of the scheduling order. However, given the short amount of discovery time authorized
8 in this case, the Court finds that Plaintiff has demonstrated good cause to justify the insubstantial
9 modification requested. Therefore, the request to modify the scheduling order is **GRANTED**.

- 10 1. The modified deadline for the completion of all discovery, including filing motions
11 to compel, shall be February 18, 2011;
- 12 2. No other modifications to the scheduling order are ordered;
- 13 3. Plaintiff is advised that, in future, lock downs occurring in the prison will not, by
14 themselves, be sufficient to demonstrate good cause to modify the scheduling order.

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16 IT IS SO ORDERED.

17 Dated: December 28, 2010

18 /s/ Jennifer L. Thurston
19 UNITED STATES MAGISTRATE JUDGE
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