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

PUNAOFO TSUGITO TILEI,  
Plaintiff,  
v.  
McGUINNESS, et al.,  
Defendants.

Case No. **1:10-cv-000069-LJO-SKO (PC)**  
**ORDER GRANTING JOINT MOTION TO  
MODIFY THE SCHEDULING ORDER**  
**(Doc. 73)**

**I. Background**

Plaintiff, Punafo Tsugito Tilei, is a state prison inmate proceeding *in forma pauperis* in this civil action pursuant to 42 U.S.C. § 1983. Plaintiff is proceeding against Defendants C.M.O. William J. McGuinness M.D., Jeremy Wang M.D., H. Hasrdsri M.D., Joseph Obriza M.D., Julian Kim M.D., Jeffrey Neubarth M.D., N. Loadholt, FNP, and P. Rouch, FNP for deliberate indifference to Plaintiff's serious medical needs in violation of the Eighth Amendment.<sup>1</sup> (Docs. 43, 44.) On June 12, 2017, the parties submitted a joint motion to modify the scheduling order based on voluminous discovery requirements and Plaintiff's counsel's pending motion to withdraw. (Docs. 71, 73.)

**II. Modification of Scheduling Order**

A party seeking modification of the schedule of a case must satisfy Federal Rule of Civil

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<sup>1</sup> Though the Ninth Circuit found that Plaintiff stated a cognizable claim against Dr. Hasrdsri, Plaintiff voluntarily dismissed Dr. Hasrdsri from the action. (Docs. 64, 65.) The Ninth Circuit found that Plaintiff did not state a claim against Lisa Salinas (Doc. 43, p. 3) and she was dismissed from the action (Doc. 46).

1 Procedure 16(b)'s "good cause" standard. *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604,  
2 608-09 (9th Cir. 1992). The good cause standard of Rule 16(b) is not nearly as liberal as that for  
3 Rule 15 and focuses primarily on the diligence of the moving party, *id.*, and the reasons for  
4 seeking modification, *C.F. ex rel. Farnan v. Capistrano Unified Sch. Dist.*, 654 F.3d 975, 984  
5 (9th Cir. 2011). If the party seeking to amend the scheduling order fails to show due diligence,  
6 the inquiry should end and the court should not grant the motion to modify. *Zivkovic v. Southern*  
7 *California Edison, Co.*, 302 F.3d 1080, 1087 (9th Cir. 2002). The parties' recitation of discovery  
8 conducted thus far shows that both sides have exercised due diligence to satisfy the good cause  
9 standard of Rule 16(b).<sup>2</sup>

10 **III. Order**

11 Accordingly, it is HEREBY ORDERED that:

- 12 (1) The joint motion to modify the scheduling order, filed on June 12, 2017, (Doc. 73),  
13 is GRANTED and the Discovery and Scheduling Order is MODIFIED as follows:
- 14 a. the Court stays further discovery and all deadlines, including completing  
15 discovery and dispositive motion deadlines, until the Court issues an order on  
16 Plaintiff's counsel's motion to withdraw; and
  - 17 b. upon issuing an order on Plaintiff's counsel's motion to withdraw, the Court  
18 will allow the parties an additional 120 days to resume and complete  
19 discovery, and an additional 90 days thereafter to file a dispositive motion.
- 20 (2) Other than the above modification of deadlines, all requirements of the December 1,  
21 2016 Discovery and Scheduling Order (Doc. 60) remain in effect.

22 IT IS SO ORDERED.

23 Dated: June 16, 2017

24 /s/ Sheila K. Olerto  
25 UNITED STATES MAGISTRATE JUDGE

26  
27  
28 <sup>2</sup> Since the motion was filed jointly and is being granted, the parties' discovery efforts need not be restated here.