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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

HOMER TYRONE LEWIS,

Plaintiff,

v.

DERRAL G. ADAMS, et al.,

Defendants.

Case No. 1:10-cv-00266-LJO-DLB PC

**ORDER GRANTING PLAINTIFF’S
MOTION TO MODIFY DISCOVERY AND
SCHEDULING ORDER**

ECF Nos. 56, 60

Plaintiff Homer Tyrone Lewis (“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 first amended complaint against Defendants Adams, Junious, Lopez, and Davis for retaliation in violation of the First Amendment, and against Defendants Adams, Junious, Lopez, Davis, and Morrison for deliberate indifference to Plaintiff’s safety in violation of the Eighth Amendment. On October 26, 2012, Plaintiff filed a motion to extend discovery.

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 Rule 16 of the Federal Rules of Civil Procedure, a pretrial scheduling order “shall not be modified except upon a showing of good cause,”

1 and leave of court. Fed. R. Civ. P. 16(b)(4); *Zivkovic v. S. Cal. Edison Co.*, 302 F.3d 1080, 1087-88
2 (9th Cir. 2002). Although “the existence or degree of prejudice to the party opposing the
3 modification might supply additional reasons to deny a motion, the focus of the inquiry is upon the
4 moving party’s reasons for seeking modification.” *Johnson*, 975 F.2d at 609.

5 Plaintiff contends that he requires additional time to complete discovery. Plaintiff contends
6 that Defendants have not responded to Plaintiff’s discovery requests, and that the Court had yet to
7 rule on Plaintiff’s motions to compel. By separate order, the Court has granted in part and denied in
8 part Plaintiff’s motions to compel. However, the Court finds good cause for modification of the
9 schedule. No further modifications will be granted. The Court will also modify the dispositive
10 motion deadline.

11 Accordingly, it is HEREBY ORDERED that

- 12 1. The discovery cutoff date, including the deadline for the filing of motions to compel, is
13 January 3, 2013;
- 14 2. The dispositive motion deadline is February 14, 2013; and
- 15 3. All other provisions of the Court’s Discovery and Scheduling Order, filed February 22,
16 2012, remain in effect.

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19 IT IS SO ORDERED.

20 Dated: November 5, 2012

/s/ Dennis L. Beck
21 UNITED STATES MAGISTRATE JUDGE
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