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5 **UNITED STATES DISTRICT COURT**  
6 **EASTERN DISTRICT OF CALIFORNIA**  
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8 WILLIAM P. GARCIA,  
9  
10 Plaintiff  
11 v.  
12 KEN CLARK, et al.,  
13 Defendants.

CASE No. 1:10-cv-00447-LJO-DLB PC  
FINDINGS AND RECOMMENDATIONS,  
RECOMMENDING DENYING  
DEFENDANTS' MOTION TO DISMISS AS  
UNTIMELY  
(Doc. 132)  
FOURTEEN-DAY DEADLINE

14 Plaintiff William P. Garcia, a state prisoner proceeding pro se and in forma pauperis, filed  
15 this civil rights action pursuant to 42 U.S.C. § 1983 on March 12, 2010. On October 4, 2013,  
16 Defendants filed a motion to dismiss. (ECF No. 132.) The deadline for filing dispositive motions  
17 was December 15, 2011. (ECF No. 22 at 2.) Defendants' motion to dismiss was filed nearly two  
18 years after the deadline for dispositive motions had passed, and Defendants fail to provide any  
19 reason why the Court should modify the original scheduling order.

20 Accordingly, it is **HEREBY RECOMMENDED** that Defendants' motion to dismiss, filed  
21 October 4, 2013, be **DENIED** as untimely.

22 These findings and recommendations will be submitted to the United States District Judge  
23 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within **fourteen (14)**  
24 **days** after being served with these findings and recommendations, Plaintiff may file written  
25 objections with the Court. The document should be captioned "Objections to Magistrate Judge's  
26 Findings and Recommendations." Plaintiff is advised that failure to file objections within the

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1 specified time may waive the right to appeal the District Court's order. *Martinez v. Ylst*, 951 F.2d  
2 1153 (9th Cir. 1991).

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4 IT IS SO ORDERED.

5 Dated: November 21, 2013

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