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**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

WILLIAM P. GARCIA,

Plaintiff,

v.

KEN CLARK, et al.,

Defendants.

CASE NO. 1:10-CV-00447-LJO-DLB PC

ORDER GRANTING DEFENDANTS’  
MOTION FOR MODIFICATION OF  
SCHEDULING ORDER

(DOC. 55)

Discovery Cut-off Date: January 13, 2012

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Plaintiff William P. Garcia (“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. Plaintiff is proceeding on his first amended complaint against Defendants K. Allison, F. Diaz, D. Ibarra, S. Knight, C. Palmer, R. Santos, R. Tolson, K. Turner, and C. Walters. Pending before the Court is Defendants’ motion to modify the scheduling order, filed September 26, 2011. Doc. 55. Plaintiff filed his opposition on October 7, 2011. Doc. 57. Defendants filed their reply on October 17, 2011. Doc. 59. The matter is submitted pursuant to Local Rule 230(l).

Defendants seek a modification of sixty days from the date of service of this order. 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

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

5 Defendants’ counsel will be unable to comply with the deadline because of a jury trial in  
6 *Davis v. Prison Health Services, et al.*, Case No. 3:09-cv-02629-SI, in the Northern District of  
7 California. Jury trial in that action is set to commence on November 28, 2011. Defendants’  
8 counsel alludes to “the press of other matters” as the reason she cannot meet the discovery cut-off  
9 deadline. Stocker Decl. ¶ 7. Plaintiff, however, does not oppose Defendants’ motion, and  
10 instead requests more than sixty days in order for Plaintiff to receive his discovery requests. Pl.’s  
11 Opp’n ¶ 4, Doc. 57. The Court finds that Defendants have presented good cause for modification.  
12 By separate order, Plaintiff was granted leave to file an amended motion to compel. Sixty days  
13 for service of discovery requests, and for the filing of motions to compel, is more than sufficient  
14 time for all parties to complete discovery. No further extensions of time regarding discovery will  
15 be granted.

16 Accordingly, it is HEREBY ORDERED that Defendants’ motion for modification of the  
17 scheduling order, filed September 26, 2011, is GRANTED. The discovery cut-off date, including  
18 the filing of any motions to compel, is January 13, 2012.

19 IT IS SO ORDERED.

20 **Dated: November 15, 2011**

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