

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

LUIS VALENZUELA RODRIGUEZ,)	Case No.: 1:10-cv-00858 LJO DLB (PC)
)	
Plaintiff,)	ORDER GRANTING DEFENDANTS’ MOTION
v.)	TO MODIFY DISCOVERY AND SCHEDULING
)	ORDER
HUBBARD, et al.,)	(ECF No. 118)
)	
Defendants.)	Discovery Deadline: August 31, 2015
)	Dispositive Motion Deadline: October 26, 2015
)	

Plaintiff Luis Valenzuela Rodriguez (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 28 U.S.C. § 1983. This action is proceeding on Plaintiff’s Third Amended Complaint against Defendants Biter, Phillips, Da Viega, Ozaeta, Betzinger, Gregory, Garza, Wegman, Alic, Speidell and Rankin on claims of violation of the Free Exercise Clause of the First Amendment, violation of the Equal Protection Clause of the Fourteenth Amendment, retaliation in violation of the First Amendment, and deliberate indifference to Plaintiff’s safety in violation of the Eighth Amendment.

On January 30, 2015, the Court issued a Discovery and Scheduling Order. (ECF No. 109.) According to the Order, the deadline for the parties to complete discovery is June 29, 2015, and the deadline to file dispositive motions is August 27, 2015. The Order also required the parties to provide initial disclosures by March 16, 2015. Defendants complied and have provided their initial

1 disclosures. Plaintiff sought and received an extension of time to file initial disclosures, and the
2 deadline was extended to May 7, 2015. According to Defendants, they have not yet received initial
3 disclosures from Plaintiff.

4 On April 29, 2015, Defendants filed a motion for summary judgment based on exhaustion. On
5 April 30, 2015, Defendants filed the instant motion to modify the scheduling order. Defendants argue
6 that in light of the outstanding motion for summary judgment, and the fact that Plaintiff has not yet
7 served his initial disclosures, the deadlines for discovery and dispositive motions should be extended.
8 Modification of the pretrial scheduling order requires a showing of good cause. Fed. R. Civ. P.
9 16(b)(4). “The schedule may be modified ‘if it cannot reasonably be met despite the diligence of the
10 party seeking the extension.’” Zivkovic v. Southern California Edison Co., 302 F.3d 1080, 1087 (9th
11 Cir. 2002) (quoting Johnson v. Mammoth Recreations, Inc., 975 F.2d 604, 607 (9th Cir. 1992)). “If
12 the party seeking the modification ‘was not diligent, the inquiry should end’ and the motion to modify
13 should not be granted.” Id. Given the fact Plaintiff has not served his initial disclosures and there is
14 an outstanding motion for summary judgment, the Court finds good cause to modify the scheduling
15 order. Fed. R. Civ. P. 16(b)(4).

16 Accordingly, IT IS HEREBY ORDERED that the Discovery and Scheduling Order (ECF No.
17 109) is modified as follows: the discovery cut-off shall be extended from June 29, 2015 to August 31,
18 2015, and the deadline to file dispositive motions shall be extended from August 27, 2015 to October
19 26, 2015.

20
21 IT IS SO ORDERED.

22 Dated: May 4, 2015

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