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

LUIS VALENZUELA RODRIGUEZ,)	Case No.: 1:10-cv-00858 LJO DLB (PC)
)	
Plaintiff,)	ORDER GRANTING PLAINTIFF’S MOTION
v.)	MOTION TO MODIFY DISCOVERY AND
)	SCHEDULING ORDER
HUBBARD, et al.,)	(ECF No. 135)
)	
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 was set for June 29, 2015, and the deadline to file dispositive motions was set to August 27, 2015.

1 On April 29, 2015, Defendants filed a motion for summary judgment. On April 30, 2015,
2 Defendants moved to modify the discovery and scheduling order. On May 4, 2015, the Court granted
3 the motion and extended the discovery deadline to August 31, 2015, and the dispositive motion
4 deadline to October 26, 2015. On September 1, 2015, Defendants filed a motion for judgment on the
5 pleadings. Also on September 1, 2015, the Court granted Plaintiff's motion to modify the scheduling
6 order. The discovery deadline was extended to October 30, 2015, and the deadline for filing
7 dispositive motions was extended to December 28, 2015.

8 On October 22, 2015, Defendants filed a motion to further modify the discovery and
9 scheduling order. Defendants note that their motion for summary judgment was filed on April 29,
10 2015, but Plaintiff received several extensions of time to respond, and just recently filed his opposition
11 on October 13, 2015. Defendants filed their reply on October 20, 2015. In addition, Defendants have
12 filed a motion for judgment on the pleadings regarding two of Plaintiff's claims. This motion is also
13 fully briefed. Both motions have the potential to dispose of at least a portion, and possibly all, of
14 Plaintiff's claims. Therefore, Defendants argue that it would be more efficient and cost-effective, and
15 potentially necessary, to delay the filing of additional dispositive motions until the pending motions
16 are decided.

17 Modification of the pretrial scheduling order requires a showing of good cause. Fed. R. Civ. P.
18 16(b)(4). "The schedule may be modified 'if it cannot reasonably be met despite the diligence of the
19 party seeking the extension.'" Zivkovic v. Southern California Edison Co., 302 F.3d 1080, 1087 (9th
20 Cir. 2002) (quoting Johnson v. Mammoth Recreations, Inc., 975 F.2d 604, 607 (9th Cir. 1992)). "If
21 the party seeking the modification 'was not diligent, the inquiry should end' and the motion to modify
22 should not be granted." Id. In light of the above, the Court finds good cause to extend the deadlines
23 for discovery and dispositive motions. Fed. R. Civ. P. 16(b)(4).

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ORDER

Accordingly, IT IS HEREBY ORDERED that the Discovery and Scheduling Order (ECF No. 109) is modified as follows: the discovery cut-off shall be extended from October 30, 2015, to January 29, 2016, and the deadline to file dispositive motions shall be extended from December 28, 2015, to March 28, 2016.

IT IS SO ORDERED.

Dated: October 27, 2015

/s/ Dennis L. Beck
UNITED STATES MAGISTRATE JUDGE