

1 KAMALA D. HARRIS, State Bar No. 146672
Attorney General of California
2 CHRISTOPHER J. BECKER, State Bar No. 230529
Supervising Deputy Attorney General
3 DIANA ESQUIVEL, State Bar No. 202954
Deputy Attorney General
4 1300 I Street, Suite 125
P.O. Box 944255
5 Sacramento, CA 94244-2550
Telephone: (916) 445-4928
6 Facsimile: (916) 324-5205
E-mail: Diana.Esquivel@doj.ca.gov

7
8 *Attorneys for Defendants Adams, Dicks, Hubach,
Jennings, Matthews, Payne, and Rickman*

9 IN THE UNITED STATES DISTRICT COURT
10 FOR THE EASTERN DISTRICT OF CALIFORNIA
11 FRESNO DIVISION

12
13 **JOHN R. MARTINEZ,**

14 Plaintiff,

15 v.

16 **JAMES TILTON, et al.,**

17 Defendants.
18
19

No. 1:10-cv-01501 SKO

**ORDER APPROVING STIPULATION
TO EXTEND DISCOVERY DEADLINE
FOR LIMITED PURPOSE OF
COMPLETING PARTY DEPOSITIONS**

(Doc. 47)

20 Under Federal Rules of Civil Procedure 6(b)(1)(A), 16(b)(4), and 26(d) and Local Rules
21 143 and 144, the parties, through their counsel of record, agree to extend the discovery deadline
22 for thirty days, up to and including December 26, 2013, for the limited purpose of completing the
23 depositions of the parties.

24 A scheduling order may be modified only upon a showing of good cause and by leave of
25 Court. Fed. R. Civ. P. 6(b)(1)(A), 16(b)(4); *see, e.g., Johnson v. Mammoth Recreations, Inc.*, 975
26 F.2d 604, 609 (describing the factors a court should consider in ruling on such a motion). In
27 considering whether a party moving for a schedule modification has good cause, the Court
28

1 primarily focuses on the diligence of the party seeking the modification. *Johnson*, 975 F.2d at
2 609 (citing Fed. R. Civ. P. 16 advisory committee’s notes of 1983 amendment). “The district
3 court may modify the pretrial schedule ‘if it cannot reasonably be met despite the diligence of the
4 party seeking the amendment.’” *Id.* (quoting Fed. R. Civ. P. 16 advisory committee notes of 1983
5 amendment).

6 Good cause exists to grant this extension because the parties require more time to take the
7 deposition of the parties. Discovery is scheduled to close on November 29, 2013, based on the
8 Court’s Scheduling Order issued on March 29, 2013. (ECF No. 25.) The depositions of four
9 Defendants are scheduled for November 18 to 19, 2013. Defendants Hubach and Matthews now
10 work at institutions near the Sacramento area, but Plaintiff’s counsel is unavailable to travel to
11 Sacramento before the close of discovery. Defendant Adams lives out of state, and Plaintiff’s
12 counsel may not need to take his deposition depending on Adams’s responses to written
13 discovery. Also, Plaintiff is currently incarcerated at Pelican Bay State Prison in Crescent City,
14 and counsel are unable to travel to the prison before the close of discovery. Counsel have agreed
15 to take Plaintiff’s deposition by videoconference to reduce the expense associated with his
16 deposition. However, the earliest the parties and the prison can accommodate his deposition is
17 December 19, 2013. Thus, the parties request a thirty-day extension of the discovery deadline to
18 complete these depositions.

1 Dated: November 22, 2013

Respectfully submitted,

2

KAMALA D. HARRIS
Attorney General of California
CHRISTOPHER J. BECKER
Supervising Deputy Attorney General

3

4

5

/s/ Diana Esquivel

6

DIANA ESQUIVEL
Deputy Attorney General
Attorneys for Defendants

7

8 Dated: November 22, 2013

WILLIAM L. SCHMIDT
ATTORNEY AT LAW, P.C.

8

9

/s/ William L. Schmidt

10 SA2012307677
11 31828817.doc

WILLIAM L. SCHMIDT
Attorneys for Plaintiff

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

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

ORDER

Based on the parties' stipulation and good cause appearing, the discovery deadline is extended to December 26, 2013, for the limited purpose of completing the parties' depositions.

IT IS SO ORDERED.

Dated: November 25, 2013

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE