



1 On January 17, 2014, the Court extended the discovery deadline to February 28, 2014, and the  
2 dispositive motion deadline to April 28, 2014. The deadlines were extended to resolve then-pending  
3 discovery motions. (ECF No. 63.)

4 Following extension of the deadlines, on February 5, 2014, the Court ordered Plaintiff to  
5 submit further discovery responses within thirty days. (ECF No. 64.) However, on March 17, 2014,  
6 Defendants filed a motion for sanctions based on Plaintiff's reported failure to provide the  
7 supplemental responses ordered by the Court. (ECF No. 65.) On April 21, 2014, the Court ordered  
8 Plaintiff to file a response to Defendants' motion for sanctions within twenty-one days. (ECF No. 67.)  
9 The deadline to respond has not expired.

10 On March 27, 2014, during pendency of the motion for sanctions, Defendants also filed the  
11 instant motion to modify the scheduling order. Defendants request that the Court vacate the  
12 dispositive motion deadline and, if necessary, reset the deadline after ruling on Defendants' motion for  
13 sanctions. In the alternative, Defendants request that the Court extend the dispositive motion deadline  
14 until at least seventy days after the Court issues a ruling on Defendants' motion for sanctions. (ECF  
15 No. 66.) Plaintiff has not opposed the request.

### 16 **III. Discussion**

17 Pursuant to Rule 16(b), a scheduling order "may be modified only for good cause and with the  
18 judge's consent." Fed. R. Civ. P. 16(b)(4). The "good cause" standard "primarily considers the  
19 diligence of the party seeking the amendment." Johnson v. Mammoth Recreations, Inc., 975 F.2d 604,  
20 609 (9th Cir. 1992). The court may modify the scheduling order "if it cannot reasonably be met  
21 despite the diligence of the party seeking the extension." Id. If the party was not diligent, the inquiry  
22 should end. Id.

23 Defendants indicate that they cannot complete a motion for summary judgment without  
24 Plaintiff's supplemental discovery responses. Additionally, Defendants indicate that a summary  
25 judgment motion may be unnecessary if the Court imposes dismissal sanctions. Based on the pending  
26 sanctions motion, the dispositive motion deadline cannot be met despite Defendants' apparent  
27 diligence. Accordingly, the Court finds good cause to modify the Discovery and Scheduling Order.  
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1 Defendants have requested that the Court either vacate the deadline and reset it, if necessary,  
2 after the motion for sanctions has been resolved or that the Court extend the dispositive motion  
3 deadline an additional seventy days after resolution of the sanctions motion. At this time, the Court  
4 declines Defendants' invitation to vacate the dispositive motion deadline in its entirety. Instead, the  
5 Court will extend the current deadline an additional sixty days to June 27, 2014.

6 **IV. Conclusion and Order**

7 Based on the above, Defendants' motion to modify the schedule is GRANTED. The  
8 dispositive motion deadline is extended to June 27, 2014.

9 IT IS SO ORDERED.

10 Dated: April 22, 2014

11 /s/ Barbara A. McAuliffe  
12 UNITED STATES MAGISTRATE JUDGE