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

GEORGE E. JACOBS, IV,)	Case No.: 1:10-cv-02349 – AWI – JLT (PC)
)	
Plaintiff,)	ORDER DENYING PLAINTIFF’S EX PARTE
)	MOTION FOR MODIFICATION/STAY OF
v.)	SCHEDULING ORDER AND NOTICE OF
)	DEFENDANT NOT SERVED SUMMONS AND
A.C. QUINONES, et al.,)	COMPLAINT
)	
Defendants.)	(Doc. 35)
)	

Plaintiff George E. Jacobs, IV, (“Plaintiff”) is a state prisoner proceeding *pro se* and *in forma pauperis* in a prisoner civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff seeks an *ex parte* modification order or stay of the scheduling order and informs the Court that the U.S. Marshals have not yet served Defendant Williams. (Doc. 35 at 1). Plaintiff briefly reports that he cannot commence discovery until “all defendants are accounted for and have made an appearance in this action.” *Id.* Plaintiff provides no further explanation as to why he cannot pursue discovery in this matter.

However, four Defendants filed their answer in this matter on July 11, 2013. (Doc. 33). The fact that Defendant Williams has not yet been served has no bearing on Plaintiff’s ability to pursue his actions against these Defendants. Further, holding this matter in abeyance until Defendant Williams is served would unnecessarily delay these proceedings and prejudice the remaining Defendants. Thus, Plaintiff fails to demonstrate good cause and his request for modification of the scheduling order is

1 **DENIED.**

2 In regard to Plaintiff's "notice of defendant not served summons and complaint," Plaintiff is
3 advised that the U.S. Marshals will serve Defendant Williams in due course. In the event that the U.S.
4 Marshals are unable to serve Defendant Williams based upon the information previously provided by
5 Plaintiff, the Court will allow Plaintiff an additional opportunity to provide further information to
6 locate Defendant Williams for service. If Plaintiff has additional information at this time, he may
7 provide it now in order to speed the process along.

8 **ORDER**

9 Accordingly, the Court **HEREBY ORDERS** that Plaintiff's *ex parte* motion for modification
10 or stay of scheduling order (Doc. 35) is **DENIED**.

11
12 IT IS SO ORDERED.

13 Dated: August 19, 2013

/s/ Jennifer L. Thurston
14 UNITED STATES MAGISTRATE JUDGE