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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MAXIMO BERREONDO,

Plaintiff,

v.

JONATHAN AKANNO, et al.,

Defendants.

Case No. 1:11-cv-00432-LJO-DLB PC

**ORDER GRANTING PARTIES' MOTIONS
TO MODIFY SCHEDULE** (ECF Nos. 52, 56)

**ORDER DENYING PLAINTIFF'S
MOTION FOR SUBPOENA DUCES
TECUM WITHOUT PREJUDICE** (ECF No.
54)

Plaintiff Maximo Berreondo ("Plaintiff") is a prisoner in the custody of the California Department of Corrections and Rehabilitation ("CDCR"). Plaintiff is proceeding pro se and in forma pauperis in this civil action pursuant to 42 U.S.C. § 1983. On December 5, 2012, Plaintiff filed a motion requesting a continuance, which the Court construes as a motion for modification of the Discovery and Scheduling Order. ECF No. 52. Plaintiff also moves for subpoenas duces tecum to be served. ECF No. 54. On February 21, 2013, Defendant moved for a modification of the dispositive motion deadline. The matter is submitted pursuant to Local Rule 230(l).

I. Motion For Continuance

Plaintiff contends that a continuance of court deadlines is required. Plaintiff contends that he was not able to access his legal documents until November 14, 2012 due to prison transfers and medical treatment.

The decision to modify a scheduling order is within the broad discretion of the district court. *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 607 (9th Cir. 1992) (quoting *Miller v. Safeco*

1 *Title Ins. Co.*, 758 F.2d 364, 369 (9th Cir. 1985)). Pursuant to Rule 16 of the Federal Rules of Civil
2 Procedure, a pretrial scheduling order “shall not be modified except upon a showing of good cause,”
3 and leave of court. Fed. R. Civ. P. 16(b)(4); *Zivkovic v. S. Cal. Edison Co.*, 302 F.3d 1080, 1087-88
4 (9th Cir. 2002). Although “the existence or degree of prejudice to the party opposing the
5 modification might supply additional reasons to deny a motion, the focus of the inquiry is upon the
6 moving party’s reasons for seeking modification.” *Johnson*, 975 F.2d at 609.

7 The Court finds good cause to modify the Discovery and Scheduling Order.

8 **II. Motion For Subpoenas**

9 Plaintiff moves for the service of subpoena duces tecum for documents at Mercy Hospital
10 and Memorial Hospital in Bakersfield, California, and medical documents at Kern Valley State
11 Prison. Plaintiff has not explained the relevance of the subpoenas. Thus, Plaintiff’s motion is
12 denied, without prejudice.¹

13 **III. Conclusion and Order**

14 Accordingly, it is HEREBY ORDERED that:

- 15 1. Plaintiff’s motion to modify the Discovery and Scheduling Order, filed December 5,
16 2012, is granted;
- 17 2. The discovery cutoff date is April 19, 2013;
- 18 3. The dispositive motion deadline is May 31, 2013;
- 19 4. All other provisions of the Discovery and Scheduling Order remain in effect; and
- 20 5. Plaintiff’s motion for subpoenas, filed December 5, 2012, is denied, without prejudice.

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23 IT IS SO ORDERED.

24 Dated: February 25, 2013

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

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¹ Because Plaintiff is proceeding in forma pauperis, the Court will direct the United States Marshal Service to serve these subpoenas once Plaintiff has made a sufficient showing as to the relevancy of the requested documents.