

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

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

|                   |   |                                      |
|-------------------|---|--------------------------------------|
| WALTER RAPALO,    | ) | Case No.: 1:11-cv-01695-LJO-BAM PC   |
| Plaintiff,        | ) |                                      |
| v.                | ) | ORDER GRANTING DEFENDANTS’           |
| S. LOPEZ, et al., | ) | APPLICATION FOR AN EXTENSION OF TIME |
| Defendants.       | ) | TO RESPOND TO PLAINTIFF’S DISCOVERY  |
|                   | ) | REQUESTS                             |
|                   | ) | (ECF No. 44)                         |
|                   | ) |                                      |
|                   | ) |                                      |
|                   | ) |                                      |
|                   | ) |                                      |

Plaintiff Walter Rapalo (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. This action proceeds against Defendants Lopez, Schaffer and Manasrah for deliberate indifference to serious medical needs in violation of the Eighth Amendment. The current discovery deadline is February 12, 2015, and the dispositive motion deadline is April 16, 2015. (ECF No. 42.)

On December 18, 2014, Defendants filed an application for an extension of time to respond to Plaintiff’s discovery requests. Defendants explain that Plaintiff served counsel with discovery requests, including two sets of requests for admissions, two requests for production of documents and six sets of interrogatories. The proof of service was dated November 9, 2014, but the postmark on the envelope was December 11, 2014. Counsel for defendants received the discovery requests on December 15, 2014. Defendants indicate that there may be a dispute regarding the due date of

1 discovery responses because of the conflicting proof of service and postmark. Defendants therefore  
2 request an extension of time to February 2, 2015, to resolve any ambiguity and to allow for counsel to  
3 speak with defendants, obtain the requested discovery documents and prepare responses. (ECF No.  
4 44.)

5 Although Defendants failed to provide the Court with any supporting documentation, such as a  
6 declaration, copy of Plaintiff's proof of service or a copy of the postmarked envelope, the Court will  
7 accept Defendants' representation that counsel did not receive the discovery requests until December  
8 15, 2014. Given the date of receipt, the Court finds good cause to extend the deadline for Defendants  
9 to submit their discovery responses. Accordingly, Defendants' application for an extension of time to  
10 respond to Plaintiff's discovery requests is GRANTED. Defendants' responses and production of  
11 documents shall be served on or before February 2, 2015.

12  
13 IT IS SO ORDERED.

14 Dated: December 19, 2014

/s/ Barbara A. McAuliffe  
15 UNITED STATES MAGISTRATE JUDGE