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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

JESSE J. MONTIEL,)	1:11cv02145 LJO DLB PC
)	
Plaintiff,)	ORDER GRANTING DEFENDANTS’
)	MOTION TO MODIFY DISCOVERY AND
vs.)	SCHEDULING ORDER
)	
YATES, et al.,)	(Document 66)
)	
Defendants.)	

Plaintiff Jesse J. Montiel, a state prisoner proceeding pro se and in forma pauperis, filed this civil rights action pursuant to 42 U.S.C. § 1983 on December 28, 2011. This action is proceeding against Defendants Das and Green violation of the Eighth Amendment.

Pursuant to the July 21, 2014, Discovery and Scheduling Order, discovery is to be completed by December 18, 2014. The dispositive motion deadline is February 16, 2015.

On November 13, 2014, Defendants filed a motion to extend the discovery deadline and dispositive motion deadline by forty-five days. The motion is suitable for decision without an opposition pursuant to Local Rule 230(l).

Modification of the pretrial scheduling order requires a showing of good cause. Fed. R. Civ. P. 16(b)(4). “The schedule may be modified ‘if it cannot reasonably be met despite the diligence of the party seeking the extension.’” Zivkovic v. Southern California Edison Co., 302

1 F.3d 1080, 1087 (9th Cir. 2002) (quoting Johnson v. Mammoth Recreations, Inc., 975 F.2d 604,
2 607 (9th Cir. 1992)). “If the party seeking the modification ‘was not diligent, the inquiry should
3 end’ and the motion to modify should not be granted.” Id.

4 This action was recently transferred to new counsel, who served written discovery on
5 Plaintiff. The responses are due on December 16, 2014. Defendants also need to take Plaintiff’s
6 deposition, but cannot do so without first reviewing his discovery responses. Fitzsimmons Decl.
7 ¶¶ 2-4.

8 The Court finds that good cause exists to modify the Discovery and Scheduling Order
9 and Defendants’ motion is GRANTED. The new dates are as follows:
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11 Discovery Deadline: February 2, 2015

12 Dispositive Motion Deadline: April 2, 2015

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14 IT IS SO ORDERED.

15 Dated: December 2, 2014

16 /s/ Dennis L. Beck
17 UNITED STATES MAGISTRATE JUDGE
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