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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 68)
)	
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.

On December 2, 2014, the Court granted Defendants’ first motion to extend the discovery and dispositive motion. The deadlines were extended by forty-five days, to February 2, 2015, and April 2, 2015.

On January 21, 2015, Defendants filed a second motion to extend the discovery deadline and dispositive motion deadline. Defendants request an extension of thirty 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

1 diligence of the party seeking the extension.” Zivkovic v. Southern California Edison Co., 302
2 F.3d 1080, 1087 (9th Cir. 2002) (quoting Johnson v. Mammoth Recreations, Inc., 975 F.2d 604,
3 607 (9th Cir. 1992)). “If the party seeking the modification ‘was not diligent, the inquiry should
4 end’ and the motion to modify should not be granted.” Id.

5 Here, Defendants’ counsel encountered an unexpected family medical emergency and
6 was in Southern California for eleven days in December. Fitzsimmons Decl. ¶ 3. As a result,
7 Counsel was forced to request an extension in this case, as well as others. Counsel needs
8 additional time to file a motion to compel, take Plaintiff’s deposition, and complete their motion
9 for summary judgment. Fitzsimmons Decl. ¶ 9.

10 The Court finds that good cause exists to modify the Discovery and Scheduling Order
11 and Defendants’ motion is GRANTED. The new dates are as follows:

12
13 Discovery Deadline: March 4, 2015
14 Dispositive Motion Deadline: May 4, 2015
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16 IT IS SO ORDERED.

17 Dated: January 22, 2015

18 /s/ Dennis L. Beck
19 UNITED STATES MAGISTRATE JUDGE
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