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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA
FRESNO DIVISION

HOMER TYRONE LEWIS,

Plaintiff,

v.

KATHLEEN ALISON, et al.,

Defendants.

Case No. 1:12-cv-00856-LJO-BAM (PC)

**ORDER GRANTING DEFENDANTS’
APPLICATION TO MODIFY
SCHEDULING ORDER**

Plaintiff Homer Tyrone Lewis (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. On April 1, 2015, the Court granted Plaintiff’s request for referral of this matter to the Pro Se Prisoner Settlement Program. A settlement conference is currently scheduled for June 5, 2015, before Magistrate Judge Michael J. Seng.

On April 10, 2015, Defendant Denny filed an application for modification of the scheduling order. Defendant Denny seeks a continuation of the dispositive motion deadline from June 10, 2015, to July 10, 2015, due to the pending settlement conference. (ECF No. 102.) No response is necessary and the motion is deemed submitted.¹ Local Rule 230(l).

¹ Plaintiff will not be prejudiced by the inability to respond. If the Court grants the motion, it will correspondingly extend the time for Plaintiff to file a dispositive motion, if any.

1 Pursuant to Rule 16(b), a scheduling order “may be modified only for good cause and with
2 the judge’s consent.” Fed. R. Civ. P. 16(b)(4). The “good cause” standard “primarily considers
3 the diligence of the party seeking the amendment.” Johnson v. Mammoth Recreations, Inc., 975
4 F.2d 604, 609 (9th Cir. 1992). The court may modify the scheduling order “if it cannot
5 reasonably be met despite the diligence of the party seeking the extension.” Id.

6 The deadline for filing all dispositive motions (other than a motion for summary judgment
7 for failure to exhaust) is June 10, 2015. Defendant Denny requests a thirty-day extension of this
8 deadline to allow the parties to participate in the settlement conference scheduled for June 5,
9 2015. Defendant Denny contends that if the parties are unsuccessful at resolving this action on
10 June 5, then there will be insufficient time to prepare and file a motion for summary judgment by
11 June 10, 2015.

12 Having considered Defendant’s moving papers, the Court finds good cause for the brief
13 continuance of the dispositive motion deadline in this action. The brief continuance will allow
14 the parties to participate in the settlement conference and, if necessary, prepare any dispositive
15 motion if the parties do not reach a settlement agreement. The brief thirty-day continuance will
16 not result in measurable prejudice to Plaintiff or to witnesses in a matter that has been pending
17 since 2012.

18 For these reasons, Defendant Denny’s application to modify the scheduling order is
19 HEREBY GRANTED. The dispositive motion deadline is extended to July 10, 2015.

20
21 IT IS SO ORDERED.

22 Dated: April 10, 2015

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