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8 **UNITED STATES DISTRICT COURT**
9 **EASTERN DISTRICT OF CALIFORNIA**
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11 ERIC WHEELER,) Case No.: 1:12cv00861 LJO DLB (PC)
12)
13 Plaintiff,) ORDER GRANTING PLAINTIFF’S
14 v.) MOTION TO MODIFY DISCOVERY AND
15) SCHEDULING ORDER
16 ALLISON, et al.,)
17) (Document 95)
18 Defendants.)
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29 Plaintiff Eric Wheeler (“Plaintiff”) is a prisoner in the custody of the California Department of
30 Corrections and Rehabilitation (“CDCR”). Plaintiff is proceeding pro se in this civil rights action
31 pursuant to 42 U.S.C. § 1983.

32 Defendants Allison, Duck, Murrieta, Lowder, Loftis, Neubarth, Ancheta, Ross and Mui have
33 appeared in this action. As a result, the Court issued a Discovery and Scheduling Order on January
34 17, 2014. The discovery deadline is currently June 16, 2014.

35 On May 8, 2014, Plaintiff filed a motion requesting a thirty-day extension of the June 16, 2014,
36 discovery deadline. Because of the proximity of the dates at issue, the Court deems the matter suitable
37 without an opposition pursuant to Local Rule 230(l).

38 Modification of the pretrial scheduling order requires a showing of good cause. Fed. R. Civ. P.
39 16(b)(4). “The schedule may be modified ‘if it cannot reasonably be met despite the diligence of the
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1 party seeking the extension.” *Zivkovic v. Southern California Edison Co.*, 302 F.3d 1080, 1087 (9th
2 Cir. 2002) (quoting *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 607 (9th Cir. 1992)). “If
3 the party seeking the modification ‘was not diligent, the inquiry should end’ and the motion to modify
4 should not be granted.” *Id.*

5 Plaintiff states that he cannot complete discovery by May 16, 2014.¹ Plaintiff states that he has
6 served discovery on Defendants, but has not received a response. He also states that he has been
7 transferred numerous times in the past two months and spent time in Administrative Segregation. As a
8 result, Plaintiff has not had access to his property.²

9 The Court notes that on April 10, 2014, it granted Defendants’ request to extend time to
10 respond to Plaintiff’s discovery to April 29, 2014.

11 The Court finds good cause to modify the Discovery and Scheduling Conference Order.
12 Accordingly, Plaintiff’s motion is GRANTED. The Court sets the following deadlines for all parties³:

13 Discovery Cut-Off: July 16, 2014

14 Dispositive Motion Deadline: September 15, 2014

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16 IT IS SO ORDERED.

17 Dated: May 12, 2014

18 /s/ Dennis L. Beck
19 UNITED STATES MAGISTRATE JUDGE
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25 ¹ It appears that Plaintiff means that he cannot *serve* all discovery by May 16, 2014, which would be thirty days prior to the
26 June 16, 2014, deadline for filing motions to compel.

27 ² On May 8, 2014, the Court ordered Defendants to address the status of Plaintiff’s property within twenty-one days.

28 ³ By separate order, the Court has granted Defendant Ancheta an extension to July 31, 2014, to respond to Plaintiff’s
discovery. The Court also extended the deadline to file motions to compel related to Defendant Ancheta’s discovery to
September 2, 2014.