

1 On April 15, 2016, Defendants filed a motion to dismiss the claims in the First Amended
2 Complaint related to events after May 28, 2013. The motion is pending.²

3 On April 20, 2016, the Court lifted the stay of discovery and set a discovery deadline of
4 August 19, 2016, and a dispositive motion deadline of October 18, 2016. These dates related to
5 the claims that survived against Defendants Tate and Vu for events occurring prior to May 28,
6 2013. The Court reasoned that these claims would go forward regardless of the outcome of the
7 motion to dismiss.

8 On May 19, 2016, Defendants filed a motion to modify the Discovery and Scheduling
9 Order. Plaintiff did not oppose the motion and it is therefore ready for decision pursuant to Local
10 Rule 230(1).

11 **DISCUSSION**

12 Modification of the pretrial scheduling order requires a showing of good cause. Fed. R.
13 Civ. P. 16(b)(4). “The schedule may be modified ‘if it cannot reasonably be met despite the
14 diligence of the party seeking the extension.’” *Zivkovic v. Southern California Edison Co.*, 302
15 F.3d 1080, 1087 (9th Cir. 2002) (quoting *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604,
16 609 (9th Cir. 1992)). “Although the existence or degree of prejudice to the party opposing the
17 modification might supply additional reasons to deny a motion, the focus of the inquiry is upon
18 the moving party’s reasons for seeking the modification.” *Johnson*, 975 F.2d at 609. “If the party
19 seeking the modification ‘was not diligent, the inquiry should end’ and the motion to modify
20 should not be granted.” *Zivkovic*, 302 F.3d at 1087 (quoting *Johnson*, 975 F.2d at 609).

21 Here, Defendants seek an order vacating the current discovery and dispositive motion
22 deadlines in the interests of efficiency and conserving resources. The First Amended Complaint
23 includes claims against Defendants Tate and Vu that are closely related to claims for which
24 discovery is currently open. Defendants contend that if the claims for events after May 28, 2013,
25 survive, they will incur the cost of conducting additional discovery. Defendants also argue that
26 the posture of this case is such that the parties will have separate dispositive motion deadlines.

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28 ² In conjunction with his opposition, Plaintiff has moved to amend.

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The Court agrees that the unusual procedural history of this action requires that the current dates be vacated. Defendants have been diligent in pursuing discovery, and there is no indication that Plaintiff will be prejudiced. Vacating the dates and resetting them after the ruling on the pending motion to dismiss will simplify the remaining course of this action.

Accordingly, Defendants' motion is GRANTED. The Court VACATES the discovery deadline and dispositive motion deadline set in the April 20, 2016, order. The Court will reset deadlines after the disposition of the pending motion to dismiss.

IT IS SO ORDERED.

Dated: June 30, 2016

/s/ Dennis L. Beck
UNITED STATES MAGISTRATE JUDGE