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8 **UNITED STATES DISTRICT COURT**  
9 **EASTERN DISTRICT OF CALIFORNIA**  
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11 IRVIN VAN BUREN, ) Case No.: 1:13-cv-01273-LJO-DLB (PC)  
12 )  
13 Plaintiff, ) ORDER GRANTING DEFENDANT’S  
14 v. ) MOTION TO MODIFY DISCOVERY AND  
15 EMERSON, ) SCHEDULING ORDER  
16 ) (Document 32)  
17 Defendant. )  
18 )  
19 )  
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21 Plaintiff Irvin Ban Buren (“Plaintiff”) is a prisoner in the custody of the California Department  
22 of Corrections and Rehabilitation (“CDCR”). Plaintiff is proceeding pro se and in forma pauperis in  
23 this civil rights action pursuant to 42 U.S.C. § 1983.  
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25 Pursuant to the September 4, 2014, Discovery and Scheduling Order, motions related to  
26 exhaustion are to be filed no later than December 2, 2014.

27 On December 1, 2014, Defendant moved to extend the deadline to file a motion related to  
28 exhaustion. The Court deems the matter 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 F.3d 1080, 1087 (9th

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

4 Here, Defendant requests an extension of ten days because, although the motion is drafted, the  
5 Thanksgiving holiday resulted in a delay in obtaining necessary signatures. Counsel states that he  
6 expects to receive signatures by December 12, 2014, and will file the motion on or before that date.  
7 Tozer Decl. ¶ 3.

8 For good cause, Defendant’s motion is GRANTED. Motions for summary judgment related to  
9 exhaustion must be filed on or before December 12, 2014.

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11 IT IS SO ORDERED.

12 Dated: December 2, 2014

13 /s/ Dennis L. Beck  
14 UNITED STATES MAGISTRATE JUDGE  
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