UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

IRVIN VAN BUREN,
 	
    Plaintiff,
 	
 vs.
 	
EMERSON,
 	
    Defendants.
	) 1:13-cv-01273-LJO-DLB PC
	)
	) ORDER GRANTING DEFENDANT'S
	) MOTION TO MODIFY DISCOVERY AND
	) SCHEDULING ORDER
	)
	) (Document 67)
	)
	)
	)

   Plaintiff Irvin Van Buren ("Plaintiff") is a state prisoner proceeding pro se and in forma pauperis in this civil rights action. This action is proceeding on Plaintiff's First Amended Complaint against Defendant Emerson for violation of the Eighth Amendment.

   The dispositive motion deadline is currently June 1, 2015.

   On April 22, 2015, the Court issued Findings and Recommendations granting Defendant's motion for summary judgment based on exhaustion.

   On April 24, Defendant filed the instant request to vacate the June 1, 2015, dispositive motion deadline. The Court deems the matter suitable for decision without an opposition. Local Rule 230(l).

DISCUSSION

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

Here, Defendant requests that the Court vacate the June 1, 2015, dispositive motion deadline because of the pending Findings and Recommendations. As the Findings and Recommendations have now issued, the Court will GRANT Defendant's request. The June 1, 2015, dispositive motion deadline is VACATED. The Court will reset a deadline, if necessary, after the action on the Findings and Recommendations.

IT IS SO ORDERED.

Dated: **April 27, 2015**   /s/ *Dennis L. Beck*
                                                      UNITED STATES MAGISTRATE JUDGE