

1 Pursuant to Rule 16(b), a scheduling order “may be modified only for good cause and
2 with the judge’s consent.” Fed. R. Civ. P. 16(b)(4). The “good cause” standard “primarily
3 considers the diligence of the party seeking the amendment.” Johnson v. Mammoth Recreations,
4 Inc., 975 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. If the party was
6 not diligent, the inquiry should end. Id.

7 Defendants state that they have diligently completed discovery in this action and
8 anticipate filing a motion for summary judgment in this action. However, Defendants request an
9 extension of the deadline to file dispositive motions due to defense counsel’s two-week jury
10 service, subsequent illness, and the press of other business. In addition, defense counsel states
11 that Plaintiff has indicated that he would not oppose Defendants’ request for modification of the
12 scheduling order, and that he would be open to settlement discussions. Defendants request a
13 forty-five day extension of the current dispositive motion deadline, to April 19, 2018. (ECF No.
14 56.)

15 Having considered Defendants’ moving papers, the Court finds good cause for the brief
16 continuance of the dispositive motion deadline in this action. Defendants have been diligent in
17 completing discovery and working on the dispositive motion, but the relevant deadline cannot be
18 met due to defense counsel’s jury service, past illness, and deadlines in other pending cases. The
19 brief continuance will not result in measurable prejudice to Plaintiff or to witnesses in a matter
20 that has been pending since 2013. In addition, defense counsel states that Plaintiff has indicated a
21 willingness to participate in settlement discussions.

22 Based on the foregoing, Defendants’ motion to modify the scheduling order, (ECF No.
23 56), is **HEREBY GRANTED**. The dispositive motion deadline is extended to April 19, 2018.

24
25 **IT IS SO ORDERED.**

26 Dated: **February 27, 2018**

27 */s/ Barbara A. McAuliffe*
28 UNITED STATES MAGISTRATE JUDGE