

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

IVAN LEE MATTHEWS,

Plaintiff,

v.

KIM HOLLAND,

Defendant.

Case No. 1:14-cv-01959-DAD-SKO (PC)

AMENDED DISCOVERY AND SCHEDULING ORDER

(Docs. 28, 47)

Discovery Deadline: June 26, 2018

Dispositive Motion Deadline: September 5, 2018

I. Background

Plaintiff, Ivan Lee Matthews, a state prisoner proceeding *pro se* and *in forma pauperis*, filed this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff is proceeding in this action on claims against Warden Kim Holland on Plaintiff's claims that the "Guard One Safety Checks" violated his rights under the Eight Amendment. The current Discovery and Scheduling (D&S) Order in this action issued on April 26, 2017. (Doc. 28.) On December 6, 2017, Defendant filed a motion for judgment on the pleadings (Doc. 46) along with an *ex parte* motion to continue pending deadlines under the D&S Order until the motion is resolved (Doc. 47). Although the time for Plaintiff to file an opposition has not yet lapsed, he will not be prejudiced by a consideration of Defendant's motion at this time as the extensions granted herein also inure to Plaintiff's benefit.

II. Modification of Scheduling Order

Federal Rule of Civil Procedure 16(b) allows for modification of scheduling orders upon a showing of "good cause." Rule 16(b)'s good cause standard is not as liberal as that for Rule 15 and focuses primarily on the diligence of the moving party, *Johnson v. Mammoth Recreations*, *Inc.*, 975 F.2d 604, 608-09 (9th Cir.1992), and the reasons for seeking modification, *C.F. ex rel*.

Farnan v. Capistrano Unified Sch. Dist., 654 F.3d 975, 984 (9th Cir.2011). If the party seeking
to amend the scheduling order fails to show due diligence, the inquiry should end and the court
should not grant the motion to modify. Zivkovic v. Southern California Edison, Co., 302 F.3d
1080, 1087 (9th Cir. 2002).
The parties here have exercised due diligence. Defendant also provides an adequate
reason for seeking the extension of pending deadlines to conserve resources until the motion for
judgment on the pleadings is resolved. The Court also notes that the notice of related cases, filed
in this action by the plaintiff in Rico v. Beard, et al., Case No. 2:17-cv-01402-CKD, awaits a
ruling by District Judge Kimberly J. Mueller. (See Docs. 41, 43.) Defendant's pending motion,
as well as possible relation to other cases satisfy Rule 16(b)'s good cause standard to amend the
D&S Order.
III. Order
Accordingly, it is HEREBY ORDERED that:
(1) Defendant's ex parte application to continue the pending deadlines in this
action, filed on December 6, 2017 (Doc. 47), is GRANTED and the
Discovery and Scheduling Order is AMENDED as follows:
a. the deadline for completion of all discovery, including filing motions to
compel is continued to June 26, 2018;
b. the deadline for filing pre-trial dispositive motions is continued to
September 5, 2018; and
(2) other than the above modification of deadlines, all requirements of the April
26, 2017, Discovery and Scheduling Order (Doc. 28) remain in effect.
IT IS SO ORDERED.
Dated: December 18, 2017 /s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE