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8 UNITED STATES DISTRICT COURT  
9 EASTERN DISTRICT OF CALIFORNIA  
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11 DEVONTE HARRIS,

12 Plaintiff,

13 vs.

14 HUMBERTO GERMAN, et al.,

15 Defendants.  
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1:15-cv-01462-DAD-GSA-PC

**ORDER GRANTING PLAINTIFF'S  
REQUEST FOR EXTENSION OF  
DISCOVERY FOR LIMITED PURPOSE  
DISCUSSED IN THIS ORDER  
(ECF No. 72.)**

**ORDER EXTENDING DISPOSITIVE  
MOTIONS DEADLINE**

**New discovery deadline: 12/18/2019  
(for limited purpose)**

**New dispositive motions deadline: 02/18/2020**

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22 **I. BACKGROUND**

23 Devonte Harris ("Plaintiff") is a prisoner proceeding *pro se* and *in forma pauperis* with  
24 this civil rights action pursuant to 42 U.S.C. § 1983. This case now proceeds with the First  
25 Amended Complaint filed by Plaintiff on March 14, 2016, against defendants (Correctional  
26 Officers) (C/O) Humberto German, C/O Philip Holguin, and C/O R. Bunitzki (collectively,  
27 "Defendants"), for use of excessive force in violation of the Eighth Amendment; and, against  
28 defendant C/O Philip Holguin for retaliation in violation of the First Amendment. (ECF No. 8.)

1 On April 24, 2019, the court issued a scheduling order reopening discovery and setting  
2 new deadlines for the parties. (ECF No. 65.) The deadline for completion of discovery, including  
3 the filing of motions to compel, was extended to August 30, 2019, and the deadline for filing  
4 dispositive motions was extended to October 30, 2019. (Id.)

5 On August 23, 2019, Plaintiff filed a motion to extend discovery for sixty days from the  
6 date of the court's order granting the motion. (ECF No. 72.) Defendants have not filed an  
7 opposition to Plaintiff's motion.

## 8 **II. MOTION TO MODIFY SCHEDULING ORDER**

9 Modification of a scheduling order requires a showing of good cause, Fed. R. Civ. P.  
10 16(b), and good cause requires a showing of due diligence, Johnson v. Mammoth Recreations,  
11 Inc., 975 F.2d 604, 609 (9th Cir. 1992). To establish good cause, the party seeking the  
12 modification of a scheduling order must generally show that even with the exercise of due  
13 diligence, they cannot meet the requirement of the order. Id. The Court may also consider the  
14 prejudice to the party opposing the modification. Id. If the party seeking to amend the scheduling  
15 order fails to show due diligence the inquiry should end and the Court should not grant the motion  
16 to modify. Zivkovic v. Southern California Edison, Co., 302 F.3d 1080, 1087 (9th Cir. 2002).

17 Plaintiff requests an extension of the discovery deadline until sixty days from the date of  
18 this order. Plaintiff asserts that he is awaiting the court's ruling on his motion to compel filed on  
19 January 31, 2019, in which Plaintiff sought to inspect video evidence and compel production of  
20 documents from an internal affairs investigation.<sup>1</sup> Plaintiff also asserts that on or about August  
21 5, 2019, he learned of a \$50,000.00 settlement from another lawsuit. Plaintiff requests time to  
22 conduct depositions in this case using the settlement funds. Plaintiff plans to obtain a court order  
23 allowing and facilitating the depositions. Plaintiff contends that he will not have time to arrange  
24 and conduct the depositions unless the current August 30, 2019 discovery deadline is extended.

25 The court finds good cause to modify the court's scheduling order to extend discovery  
26 for this *limited purpose*. Plaintiff has shown diligence in his efforts to arrange and conduct

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28 <sup>1</sup> On September 24, 2019, the court granted Plaintiff's January 31, 2019 motion to compel. (ECF  
No. 77.)

1 depositions using funds from the settlement of another lawsuit, but he was unable to do so by the  
2 August 30, 2019 deadline. Defendants have not opposed Plaintiff's motion. Therefore, good  
3 cause appearing, Plaintiff's motion for extension of the discovery deadline shall be granted for  
4 the *limited purpose* of Plaintiff arranging and conducting depositions in this case.

5 In light of this ruling, the court finds good cause to extend the deadline for filing  
6 dispositive motions in this case for all parties until February 18, 2020.

7 **III. CONCLUSION**

8 Based on the foregoing, and good cause appearing, IT IS HEREBY ORDERED that:

- 9 1. Plaintiff's motion to modify the court's April 24, 2019 Scheduling Order, is  
10 GRANTED;
- 11 2. Plaintiff is GRANTED an extension of the discovery deadline until **December**  
12 **18, 2019**, for the *limited purpose* of Plaintiff arranging and conducting  
13 depositions in this case;
- 14 3. The deadline for filing dispositive motions in this case for all parties is extended  
15 from October 30, 2019 until **February 18, 2020**; and
- 16 4. All other provisions of the court's April 24, 2019 Scheduling Order remain the  
17 same.

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19 IT IS SO ORDERED.

20 Dated: **October 15, 2019**

21 **/s/ Gary S. Austin**  
22 UNITED STATES MAGISTRATE JUDGE  
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