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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

STEWART MANAGO,
Plaintiff,
vs.
D. DAVEY, et al.,
Defendants.

1:16-cv-00399-LJO-GSA-PC
ORDER GRANTING MOTION TO
MODIFY DISCOVERY AND
SCHEDULING ORDER
(ECF No. 66.)
ORDER EXTENDING DISCOVERY
DEADLINE AND DEADLINE TO FILE
DISPOSITIVE MOTIONS FOR ALL
PARTIES
New Discovery Deadline: March 7, 2017
New Dispositive Motions Deadline: May 6, 2017

I. BACKGROUND

Stewart Manago (“Plaintiff”) is a former state prisoner proceeding pro se and in forma pauperis with this civil rights action filed pursuant to 42 U.S.C. § 1983. Plaintiff filed the Complaint commencing this action on March 24, 2016. (ECF No. 1.) This case now proceeds with the First Amended Complaint filed on April 18, 2016, against defendants J. Acevedo, D. Davey, A. Maxfield, E. Razo, M.V. Sexton, A. Valdez, and J. Vanderpoel (collectively, “Defendants”), on Plaintiff’s First Amendment retaliation claims. (ECF No. 13.) This case is now in the discovery phase.

1 On August 9, 2016, the Court issued a Discovery and Scheduling Order establishing
2 pretrial deadlines for the parties, including a deadline of January 6, 2017, for the parties to
3 complete discovery, including the filing of motions to compel, and a deadline of March 7,
4 2017, for the filing of pretrial dispositive motions. (ECF No. 45.)

5 On November 30, 2016, Defendants filed a motion to modify the Discovery and
6 Scheduling Order. (ECF No. 66.)

7 **II. MOTION TO MODIFY SCHEDULING ORDER**

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

17 Defendants assert that they are tasked with responding to numerous discovery requests
18 because to date, Plaintiff has served Defendants with more than five hundred and fifty
19 discovery requests. (De La Torre-Fennell Decl., ECF No. 66 ¶5.) Defense counsel declares
20 that “[t]hese discovery requests are voluminous, seek information dating back to 1989, and
21 require speaking with each of the seven Defendants, as well as conducting an in-depth review
22 of Plaintiff’s voluminous C-File.” (Id. ¶6.) Defense counsel declares that she immediately
23 began reviewing the discovery and has completed many of the responses; however, there are
24 more responses to complete, and Defendants have not had the opportunity to prepare and serve
25 Plaintiff with their discovery requests, or to prepare for and conduct Plaintiff’s deposition. (Id.
26 ¶¶7, 8.). Defendants request a sixty-day extension of the discovery cut-off and motion to
27 compel deadlines, and a sixty-day extension of the dispositive motions deadline from the date
28 the Court allows Plaintiff to respond to Defendants’ discovery requests.

1 The Court finds good cause to extend the deadlines for the parties to conduct discovery
2 and file dispositive motions. Defendants have shown diligence in conducting a voluminous
3 amount of discovery. Therefore, Defendants' motion to modify the Discovery and Scheduling
4 Order shall be granted.

5 **III. CONCLUSION**

6 Based on the foregoing, IT IS HEREBY ORDERED that:

- 7 1. Defendants' motion to modify the Court's Discovery and Scheduling Order,
8 filed on November 30, 2016, is GRANTED;
- 9 2. The deadline for the completion of discovery, including the filing of motions to
10 compel, is extended from January 6, 2017 to **March 7, 2017** for all parties to
11 this action;
- 12 3. The deadline for filing and serving pretrial dispositive motions is extended from
13 March 7, 2017 to **May 6, 2017** for all parties to this action; and
- 14 4. All other provisions of the Court's August 9, 2016 Discovery and Scheduling
15 Order remain the same.

16
17 IT IS SO ORDERED.

18 Dated: **December 8, 2016**

/s/ Gary S. Austin
19 UNITED STATES MAGISTRATE JUDGE