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UNITED STATES DISTRICT COURT

DEBRA BERRY,

Plaintiff,

v.

YOSEMITE COMMUNITY COLLEGE
DISTRICT, a Public Educational
Institution, Junior College, *et al.*,

Defendants.

Case No. 1:16-cv-00411-LJO-EPG

**ORDER GRANTING IN PART
DEFENDANTS' EX PARTE
APPLICATION TO MODIFY THE
SCHEDULING ORDER OR, IN THE
ALTERNATIVE, TO SHORTEN THE
TIME TO HEAR A NOTICED
MOTION TO MODIFY THE
SCHEDULING ORDER**

(ECF No. 46)

EASTERN DISTRICT OF CALIFORNIA

Debra Berry ("Plaintiff") is proceeding *pro se* and *in forma pauperis* with this civil rights action pursuant to 42 U.S.C. § 1983 and Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d. On March 25, 2016, Plaintiff commenced this action by filing a Complaint against Yosemite Community College District, Modesto Junior College, Bryan Justin Marks, Jacqueline Jordan (erroneously sued as "Jackie Jorden"), Ellen Dambrosio (erroneously sued as "Ellen Bambrosia"), Iris Caroll (erroneously sued as "Iris Carol"), and Brandon McCarty (erroneously sued as "Granden McCarthy") (collectively "Defendants"). (ECF No. 1).

On January 22, 2018, the court issued a Scheduling Order, setting the following dates and deadlines:

Discovery Deadlines:

Non-Expert: 11/16/2018

Expert: 3/8/2019
Expert Disclosure Deadlines:
Filing: 12/14/2018
Supplemental/Rebuttal: 1/11/2019
Motion Deadlines:
Non-Dispositive:
Filing: 4/5/2019
Dispositive:
Filing: 5/10/2019
Hearing: 6/27/2019 at 8:30 am, Courtroom 4
Pretrial Conference:
8/8/2019 at 8:30am, Courtroom 4
Jury Trial:
11/5/2019 at 8:30 am, Courtroom 4 (7 - 10 days)

(ECF No. 28).

On November 28, 2018, Defendants filed an *ex parte* application to further modify the Scheduling Order in this action. (ECF No. 44). Good cause appearing, the Court modified the deadlines for initial expert disclosure, expert rebuttal/supplemental expert disclosure, expert discovery and non-dispositive motion filing, but left unchanged the dates and deadlines for dispositive motion filing, a dispositive motion hearing, a pretrial conference, and the jury trial. (ECF No. 45).

On December 7, 2018, Defendants filed a second *ex parte* application to further modify the Scheduling Order in this action or, in the alternative, to shorten the time to hear a noticed motion to modify the Scheduling Order. (ECF No. 46). Defendants seek a three-month extension of the dates in the Scheduling Order as follows:

	Current Date	Requested New Date
Initial Expert Disclosure	January 14, 2019	April 15, 2019
Initial Expert Disclosure:	February 11, 2019	May 13, 2019
Expert Rebuttal/Supplemental:	April 8, 2019	July 8, 2019
Expert Discovery:	May 6, 2019	August 6, 2019
Non-Dispositive Motion Filing:	May 10, 2019	August 12, 2019
Dispositive Motion Filing:	June 27, 2019	September 27, 2019
Dispositive Motion Hearing:	August 8, 2019	November 8, 2019
Pretrial Conference:	November 5, 2019	February 5, 2020
Jury Trial:		

Defendants explain that they are seeking to further modify the Scheduling Order because Plaintiff refused to answer approximately one quarter of the questions asked of her in her deposition on

December 5, 2018, including questions regarding her injuries and damages, and Defendants intend to file a motion to compel Plaintiff's testimony. Defendants state that the requested three-month extension is their estimate for the time needed to compel and take the remainder of Plaintiff's incomplete deposition.

Initially, as Defendants have notified the Court that they intend to file a motion to compel, the Court sets the following briefing schedule for the prospective motion to compel. A motion to compel hearing is set for January 25, 2019 at 1:30 p.m. in Courtroom 10. Defendants shall file their motion to compel by no later than January 4, 2019. Plaintiff shall file any opposition to the motion to compel by no later than January 11, 2019, and Defendants shall file any reply by no later than January 18, 2019.

The Court finds good cause to modify the Scheduling Order. However, the Court does not find good cause to extend the schedule by three months. Furthermore, due to the impacted calendar of the assigned district judge, the dates for the dispositive motion filing, pretrial conference, and the jury trial cannot be modified, and must remain unchanged. Accordingly, the Scheduling Order is further modified as follows:

	Current Date	Requested Date	New Date
Initial Expert Disclosure:	January 14, 2019	April 15, 2019	February 25, 2019
Expert			
Rebuttal/Supplemental:	February 11, 2019	May 13, 2019	March 25, 2019
Expert Discovery Cut-off:	April 8, 2019	July 8, 2019	April 29, 2019
Non-Dispositive Motion			
Filing:	May 6, 2019	August 6, 2019	May 6, 2019
Dispositive Motion Filing:	May 10, 2019	August 12, 2019	May 28, 2019
Dispositive Motion Hearing:	June 27, 2019	September 27, 2019	June 27, 2019
Pretrial Conference:	August 8, 2019	November 8, 2019	August 8, 2019
Jury Trial:	November 5, 2019	February 5, 2020	November 5, 2019

The parties should consider this schedule to be firm. The Court has attempted to give the parties as much time as possible, while keeping the trial and associated dates.

IT IS SO ORDERED.

Dated: **December 11, 2018**

/s/ Eric P. Gray
UNITED STATES MAGISTRATE JUDGE