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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

TONY EUGENE SCALLY,
Plaintiff,
v.
N. ARSENAULT, et. al.,
Defendants.

Case No. 1:16-cv-01237-AWI-MJS
**ORDER GRANTING DEFENDANT'S
MOTION FOR EXTENSION OF TIME TO
RESPOND TO DISCOVERY**
(ECF No. 47)
**ORDER FURTHER MODIFYING
DISCOVERY AND SCHEDULING ORDER**
(ECF No. 40)

Plaintiff is a prisoner proceeding pro se and in forma pauperis in this civil rights action brought pursuant to 42 U.S.C. § 1983. On March 22, 2018, the District Judge adopted the undersigned's findings and recommendations and ordered that Plaintiff's Fourth Amended Complaint be made the operative complaint and that Plaintiff be granted thirty days to identify the Doe Defendants so that they may be served. (ECF No. 48.) According to the Court's January 12, 2018 order, discovery is to be closed 60 days from March 22, 2018 and dispositive motions must be filed within 70 days of March 22, 2018. (ECF No. 40.)

On March 19, 2018, Defendant Arsenault filed a motion for extension of time until April 20, 2018) to respond to Plaintiff's discovery requests on the ground that the case

1 only recently had been transferred to counsel for the Defense him and he did not see
2 Plaintiff's February 1, 2018-served discovery request until March 15, 2018. (ECF No.
3 47.) Counsel has no objection to extending Plaintiff's 30-day deadline to identify the Doe
4 Defendants in light of this delayed response to the discovery directed at determining
5 their identity. . (Id.)

6 The Court finds good cause for this requested extension of time in light of the
7 intra-office transfer, unintentional nature of the delay, and the lack of prejudice to
8 Plaintiff. Defendant Arsenault shall have until April 20, 2018 to respond to Plaintiff's
9 discovery requests.

10 In light of this extension, the Court will provide Plaintiff until May 4, 2018, to
11 identify the Doe Defendants and submit service documents for them to the Court.

12 Because the Doe Defendants must still be identified and served (if possible) and
13 respond to the Fourth Amended Complaint, the Court hereby terminates the deadlines
14 established in the January 12, 2018 order (ECF No. 40). If Doe Defendants are identified
15 and served, the Court will issue a new discovery and scheduling order once they
16 respond to the Fourth Amended Complaint. If the Doe Defendants cannot be identified
17 and/or served, then the Court will dismiss them from the action, order Defendant
18 Arsenault to respond to the Fourth Amended Complaint, and issue a new discovery and
19 scheduling order once Defendant Arsenault files a response.

20 Accordingly, IT IS HEREBY ORDERED that:

21 1. Defendant Arsenault's motion for extension of time (ECF No. 47) to
22 respond to Plaintiff's discovery requests is granted;

23 2. Defendant Arsenault shall have until April 20, 2018 to serve responses on
24 Plaintiff;

25 3. Plaintiff shall now have until May 4, 2018 to identify Doe Defendants and to
26 submit the completed Notice of Submission of Documents to the Court with one
27 completed summons for each Defendant, one completed USM-285 form for each
28 Defendant, and four copies of the endorsed Fourth Amended Complaint;

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4. The deadlines established in the Court's modified discovery and scheduling order (ECF No. 40) are vacated; and

5. The Court will issue a new discovery and scheduling order once the Doe Defendants have either been identified and served, or dismissed from this action.

IT IS SO ORDERED.

Dated: March 27, 2018

1st Michael J. Seng
UNITED STATES MAGISTRATE JUDGE