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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

CHRISTOPHER LIPSEY, JR.,)	Case No.: 1:17-cv-00569-LJO-BAM (PC)
Plaintiff,)	ORDER GRANTING DEFENDANTS’
vs.)	MOTION TO MODIFY THE DISCOVERY
DR. REDDY, et al.,)	AND SCHEDULING ORDER
Defendants.)	(Doc. No. 70)
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Plaintiff Christopher Lipsey is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983.

Currently before the Court is Defendants’ motion to modify the discovery and scheduling order, filed on December 4, 2018. (Doc. No. 70.) Defendants seek to extend the dispositive motion deadline, as non-exhaustion discovery has been stayed in this case, and the Court has not yet ruled upon the pending motion for summary judgment for the failure to exhaust administrative remedies.

A district court has the inherent power to modify the due dates on its docket. A scheduling order may be modified only upon a showing of good cause and by leave of the Court. Fed. R. Civ. P. 16(b)(4). In considering whether a party moving for a schedule modification has shown good cause, the Court primarily focuses on the diligence of the party seeking the modification. *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir. 1992).

1 The Court finds good cause to grant Defendants' motion here. A ruling on the pending
2 summary judgment motion may eliminate, or reduce, the need for additional discovery and any
3 dispositive motion(s) on the merits of this action. Judicial economy and resources are best
4 served by amending the discovery and scheduling order to allow for a final determination on the
5 pending summary judgment motion. Furthermore, Defendants have been diligent in defending
6 this action, having not yet requested any modifications of the scheduling order and pursuing their
7 summary judgment motion in a timely fashion. Plaintiff will not be prejudiced, as Plaintiff has
8 not had an opportunity to conduct merits-based discovery yet, and therefore all parties will
9 benefit from a modification of the discovery and scheduling order to effectively litigate this
10 action.

11 Accordingly, it is HEREBY ORDERED that:

- 12 1. Defendants' motion to modify the discovery and scheduling order, filed on
13 December 4, 2018 (Doc. No. 70) is granted;
- 14 2. The dispositive motion deadline of December 13, 2018 is vacated; and
- 15 3. The discovery deadline and dispositive motion deadlines will be reset after a final
16 ruling on Defendants' motion for summary judgment for the failure to exhaust administrative
17 remedies, if necessary.

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19 IT IS SO ORDERED.

20 Dated: December 6, 2018

/s/ Barbara A. McAuliffe
21 UNITED STATES MAGISTRATE JUDGE
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