

1 Additionally, on February 18, 2021, plaintiff filed a motion to amend the complaint. ECF
2 No. 66. On March 31, 2021, this court issued an order staying this action pending resolution of a
3 motion for rehearing en banc filed in the United States Court of Appeals for the Ninth Circuit in
4 another action, *Rico v. Ducart*, Case No. 2:17-1402 KJM DB P. Order (March 31, 2021), ECF
5 No. 70. On April 1, 2021, plaintiff filed a motion for an extension of time to file a reply brief in
6 support of his motion to amend, ECF No. 71; the reply was filed April 12, 2021. ECF No. 72.
7 On October 5, 2021, the court granted defendants' motion to lift the stay and directed defendants
8 to file a dispositive motion or motion for a new scheduling order within sixty days. Order (Oct. 5,
9 2021), ECF No. 74. On the same day, plaintiff filed a motion for a ruling on the merits of his
10 claims, ECF No. 75, to which defendants responded on October 26, 2021, ECF No. 80. On
11 November 3, 2021, defendants filed a notice of suggestion of the death of defendant Sexton, ECF
12 No. 81, and a motion for a new scheduling order, ECF No. 82.

13 After review, the court finds plaintiff's October 5, 2021 motion contains argument in
14 support of proceeding to the merits of his claims. By their most recent motion, defendants seek
15 additional time to investigate the claims and develop evidence to support their defense. ECF No.
16 82 at 1. The parties agree that a new scheduling order should be issued. Accordingly, these
17 motions will be granted and this matter will be referred back to the assigned magistrate judge for
18 resolution of plaintiff's motions to amend the complaint and for extension of time to file a reply
19 brief, ECF Nos. 66, 71, issuance of a new scheduling order, and further pretrial proceedings
20 consistent with 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.


21 In accordance with the above, IT IS HEREBY ORDERED that:

- 22 1. The findings and recommendations filed December 12, 2019, ECF No. 58, are
23 adopted in full;
- 24 2. Plaintiff's November 4, 2019 motion for emergency injunction, ECF No. 57, is
25 DENIED;
- 26 3. The findings and recommendations filed August 11, 2020, ECF No. 61, are adopted in
27 full;
- 28 4. Plaintiff's motion for temporary restraining order, ECF No. 60, is DENIED;

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- 5. Plaintiff's October 5, 2021 motion, ECF No. 75, is construed as a motion for new scheduling order and, so construed, is GRANTED;
 - 6. Defendants' November 3, 2021 motion for a new scheduling order, ECF No. 82, is GRANTED; and
 - 7. This matter is referred back to the assigned magistrate judge for resolution of plaintiff's motions to amend the complaint and for extension of time to file a reply brief, ECF Nos. 66, 71, issuance of a new scheduling order, and further pretrial proceedings consistent with 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.
- This order resolves ECF Nos. 57, 60, 61, 75, 82.

DATED: November 9, 2021.



CHIEF UNITED STATES DISTRICT JUDGE