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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JOSEPH SCHESSLER,
Plaintiff,
v.
BASS,
Defendant.

Case No. 1:23-cv-01012-BAM (PC)
**ORDER GRANTING IN PART PLAINTIFF’S
MOTION FOR EXTENSION OF DISCOVERY
DEADLINE
(ECF No. 26)**
Discovery Deadline: August 4, 2024
**ORDER GRANTING DEFENDANT’S MOTION
FOR EXTENSION OF TIME TO RESPOND TO
PLAINTIFF’S MOTION FOR A COURT ORDER
(ECF No. 27)**
Response Deadline: August 2, 2024

Plaintiff Joseph Schessler (“Plaintiff”) is a state prisoner proceeding *pro se* in this civil rights action pursuant to 42 U.S.C. § 1983. This action against Defendant Bass (“Defendant”) for retaliation and denial of free exercise of religion in violation of the First Amendment and for violation of the Bane Act, California Civil Code 52.1. All parties have consented to United States Magistrate Judge jurisdiction. (ECF Nos. 6, 11.)

Pursuant to the Court’s November 7, 2023 discovery and scheduling order, the deadline for completion of discovery is July 7, 2024. (ECF No. 18.) On June 10, 2024, Plaintiff filed a motion for a court order regarding his inability to obtain copies of documents relevant to this litigation pursuant to an internal CDCR policy or memorandum. (ECF No. 24.) The Court

1 directed Defendant to file a response to Plaintiff’s motion, and Defendant’s response is currently
2 due on or before July 3, 2024. (ECF No. 25.)

3 Currently before the Court are Plaintiff’s motion for a 28-day extension of the discovery
4 deadline, filed June 27, 2024, and Defendant’s motion for a 30-day extension of time to respond
5 to Plaintiff’s motion for a court order, filed July 2, 2024. (ECF Nos. 26, 27.) Although the
6 parties have not yet had the opportunity to respond to the motions, the Court finds responses
7 unnecessary. The motions are deemed submitted. Local Rule 230(1).

8 **I. Plaintiff’s Motion for Extension of Discovery Deadline**

9 Plaintiff requests that the deadline for completion of discovery be extended to August 4,
10 2024, to allow him to prepare, serve, and file a motion to compel production of documents. (ECF
11 No. 26.) Plaintiff states that in addition to this action, he is litigating a related action in Madera
12 Superior Court, *Schessler v. Avila*, Case No. MCV086460, including an active appeal of demurrer
13 from that case in the Fifth Appellate District, Case No. F087527. Plaintiff is also engaged in
14 criminal discovery in Los Angeles County Superior Court, *People v. Schessler*, Case No.
15 VA100500, and Plaintiff is required to attend vocational training Monday through Friday.
16 Plaintiff also suffers from chronic vertigo due to a neurological condition, so some days he cannot
17 properly function. Although the parties are not required to meet and confer, Plaintiff attempted to
18 stipulate to the extension informally with Defendant, but defense counsel did not agree to the
19 extension of time. (*Id.* at 6.)

20 Having considered the request, the Court finds good cause to grant, in part, the requested
21 modification of the amended discovery and scheduling order. Fed. R. Civ. P. 16(b)(4). Plaintiff
22 is unable to complete his motion to compel due to other pending litigation and his medical
23 conditions. It appears Plaintiff was diligent in attempting to stipulate to an extension of time with
24 Defendant prior to filing this motion, and in light of Defendant’s request for extension of time—
25 based in part on the same pending litigation cited by Plaintiff, as discussed below—the Court
26 finds it appropriate to extend the discovery deadline, **limited to the filing of a motion to compel.**
27 No new discovery requests may be filed, and as explained by the November 7, 2023 discovery
28 and scheduling order, all discovery requests should have been served “**at least forty-five (45)**

1 **days before** the discovery deadline.” (ECF No. 18, p. 3.) The Court further finds that Defendant
2 will not be prejudiced by the brief extension granted here.

3 **II. Defendant’s Motion for Extension of Time to Respond to Plaintiff’s Motion**

4 Defendant requests a 30-day extension of time to respond to Plaintiff’s motion for a court
5 order. (ECF No. 27.) Defendant states that good cause exists to grant this extension because
6 defense counsel needs additional time to investigate Plaintiff’s claims and prepare a response.
7 Defendant does not believe Plaintiff will be prejudiced because Defendant produced the
8 memoranda and its progenies through discovery, and Plaintiff confirmed that he has copies of the
9 documents at issue in his motion. Defense counsel has spoken with CDCR staff regarding the
10 policy referenced in Plaintiff’s motion, but because this matter concerns CDCR’s internal policy,
11 additional time to investigate the policy and work with the individuals involved is necessary. In
12 addition, defense counsel’s availability is limited due to several time conflicts, including
13 upcoming deadlines and court dates in *Schessler v. Avila*, Case No. MCV086460, as well as
14 discovery responses due on July 6, 2024 in the instant action. (*Id.*)

15 Having considered the request, the Court finds good cause to grant the requested
16 extension of this deadline. Fed. R. Civ. P. 6(b). The Court further finds that Plaintiff will not be
17 prejudiced by the brief extension granted here.

18 **III. Order**

19 Accordingly, IT IS HEREBY ORDERED that:

- 20 1. Plaintiff’s motion for extension of the discovery deadline, (ECF No. 26), is GRANTED
21 IN PART;
- 22 2. The deadline for the completion of all discovery, **limited to the filing of a motion to**
23 **compel**, is extended from July 7, 2024 to **August 4, 2024**;
- 24 3. All other requirements set forth in the Court’s November 7, 2023 discovery and
25 scheduling order, (ECF No. 18), remain in place;
- 26 4. Defendant’s motion for extension of time to respond to Plaintiff’s motion for a court
27 order, (ECF No. 27), is GRANTED;

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5. On or before **August 2, 2024**, Defendant shall file a response to Plaintiff's motion for a court order; and
6. **A request for an extension of a deadline set in this order must be filed on or before the expiration of the deadline in question and will only be granted on a showing of good cause.**

IT IS SO ORDERED.

Dated: July 2, 2024

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE