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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

STANLEY SIMS,

Plaintiff,

No. CIV S-07-0898 MCE EFB P

vs.

VEAL, et al.,

Defendants.

ORDER

_____ /

Plaintiff is a state prisoner proceeding without counsel in an action brought under 42 U.S.C. § 1983. Defendants have filed a second motion to modify the scheduling order. Pursuant to the court’s December 31, 2008, order granting the first such motion, dispositive motions should have been filed no later than February 2, 2009.

A schedule may be modified upon a showing of good cause. Fed. R. Civ. P. 16(b). Good cause exists when the moving party demonstrates he cannot meet the deadline despite exercising due diligence. *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir. 1992). Kenneth R. Williams, who supervises the attorney who thus far has represented the defendants, filed the motion currently under consideration. In a declaration attached to it, Mr. Williams asserts that the attorney previously assigned to this case is primarily responsible for the care of her seriously ill husband. While that attorney worked diligently to complete a motion for

1 summary judgment for timely filing, her husband has required three visits to the emergency
2 room in the past four weeks. This has made it impossible to complete the motion and timely file
3 it. Mr. Williams asserts that he intends to assign this case to a different attorney. He requests
4 that the court set March 2, 2009, as the date by which dispositive motions must be filed.

5 Good cause appearing, defendants' February 2, 2009, motion is granted and the date for
6 filing dispositive motions is extended. Dispositive motions must be filed no later than April 2,
7 2009. The court is granting one month more than is requested, but does not intend to entertain
8 requests for further modification.

9 So ordered.

10 Dated: February 5, 2009.

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12 EDMUND F. BRENNAN
13 UNITED STATES MAGISTRATE JUDGE
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