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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

MICHAEL A. HUNT,  
Plaintiff,  
v.  
M. REYES, et al.,  
Defendants.

No. 2:08-cv-0181 MCE CKD P

ORDER

Trial in this pro se prisoner civil rights action is set for January 2015. (ECF No. 156.) Before the court is plaintiff’s motion to modify the scheduling order so that plaintiff may pursue a second motion for summary judgment against remaining defendant Rios. (ECF No. 157; see ECF No. 86.) Plaintiff’s motion to modify is fully briefed. (ECF Nos. 159, 160.)

Pursuant to Federal Rule of Civil Procedure 16(b), a scheduling order “may be modified only for good cause and with the judge’s consent.” Fed. R. Civ. P. 16(b)(4). The “good cause” standard “primarily considers the diligence of the party seeking the amendment.” Johnson v. Mammoth Recreations, Inc., 975 F.2d 604, 609 (9th Cir. 1992). The district court may modify the scheduling order “if it cannot reasonably be met despite the diligence of the party seeking the extension.” Id.

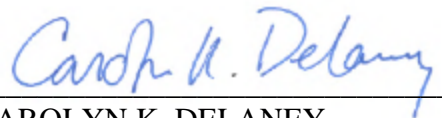
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Here, the court does not find good cause to modify the scheduling order. The matters that plaintiff seeks to re-litigate on summary judgment are disputed issues of fact properly set for trial.

Accordingly, IT IS HEREBY ORDERED THAT:

1. Plaintiff's motion to modify the scheduling order (ECF No. 157) is denied; and
2. Plaintiff's motion for summary judgment (ECF No. 158) is denied as untimely.

Dated: September 24, 2014

  
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CAROLYN K. DELANEY  
UNITED STATES MAGISTRATE JUDGE

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