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

MICHAEL A. HUNT,

Plaintiff,

No. CIV S-08-0181 MCE CKD P

vs.

M. REYES, et al.,

Defendants.

ORDER

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Plaintiff, a state prisoner proceeding pro se, filed this action pursuant to 42 U.S.C. § 1983. He claims that defendants retaliated against him in violation of his First Amendment rights. Discovery requests were due August 31, 2011. (Dkt. No. 48.) Motions to compel discovery were due October 30, 2011. (Id.) Pending is plaintiff’s November 16, 2011 motion for leave to file additional interrogatories. (Dkt. No. 58.)

As this request comes after the discovery cut-off date, the court construes it as a request to modify the schedule under Federal Rule of Civil Procedure 16(b). See Hellman v. Vojkufka, 2011 WL 677877 at \*5 (E.D. Cal. Feb. 17, 2011) (same). 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). Here, plaintiff has

1 not shown – nor attempted to show – that he could not have served the questions he now wishes  
2 to ask of defendants prior to the discovery cut-off if he had acted diligently. Accordingly, the  
3 court denies plaintiff's request to propound additional interrogatories.

4 IT IS HEREBY ORDERED that plaintiff's November 16, 2011 motion for leave  
5 to file additional interrogatories (Dkt. No. 58) is denied.

6 Dated: December 2, 2011

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9 CAROLYN K. DELANEY  
10 UNITED STATES MAGISTRATE JUDGE

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