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

DWAYNE B. BURNS,  
Plaintiff,

No. CIV S-09-0497-MCE-CMK

vs.

ORDER

KIMPLE, et al.,  
Defendants.

\_\_\_\_\_ /

Plaintiff, who is proceeding pro se, brings this civil action. Pending before the court is plaintiff’s motion (Doc. 60) for modification of the court’s April 22, 2010, scheduling order. Plaintiff seeks an extension of the discovery cut-off date from October 20, 2010, to December 20, 2010. Plaintiff states that, due to his recent incarceration, he has been unable to conduct discovery and otherwise prepare for trial. Defendants oppose the request, arguing that “[p]laintiff’s incarceration should not establish good cause to extend discovery. . . .” Given that the District Judge assigned to this case has sua sponte re-set the pre-trial conference and trial dates to January 2012 and April 2012, respectively, the court cannot find any prejudice in granting plaintiff’s request for an extension of the discovery cut-off date. Defendants have not outlined any particular prejudice which would result for the requested extension.

1                   Accordingly, IT IS HEREBY ORDERED that:

- 2                   1.       Plaintiff's motion (Doc. 60) for modification of the scheduling order is  
3 granted;
- 4                   2.       Discovery shall be completed and all motions pertaining to discovery shall  
5 be noticed to be heard by December 20, 2010; and
- 6                   3.       Dispositive motions, if any, shall be noticed to be heard by April 20, 2011.

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8 DATED: October 22, 2010

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10 **CRAIG M. KELLISON**  
11 UNITED STATES MAGISTRATE JUDGE

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