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

WILLIE BRIDGES,

Plaintiff,

No. CIV S-09-0940 GEB DAD P

vs.

SUZAN L. HUBBARD, et al.,

Defendants.

ORDER

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Plaintiff is a state prisoner proceeding pro se and in forma pauperis. Plaintiff seeks relief pursuant to 42 U.S.C. § 1983. Pending before the court are several of the parties' motions.

First, both parties have filed motions to modify the scheduling order in this case. Plaintiff has filed a motion for a sixty-day extension of time to file a motion to compel, explaining that when he received defendants' responses to his discovery requests, he was unable to timely file a motion to compel because he did not have access to the law library at the time. Plaintiff contends that he needed access to the law library to conduct legal research and to make copies. Plaintiff has attached to his motion a Program Status Report from CSP-Solano, which indicates that the prison was on a modified program at the time plaintiff received defendants'

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1 responses to his discovery requests and that access to the law library was limited. Plaintiff has  
2 also since filed a motion to compel.

3 Defendants have filed a motion to modify the scheduling order to permit their  
4 filing of a motion for summary judgment beyond the current deadline for the filing of dispositive  
5 motions. According to defense counsel's declaration, counsel became ill in 2008 and was often  
6 unable to work over the course of the following two years. In December 2010, the cause of  
7 counsel's illness was finally discovered and treated, and counsel was apparently healthy until  
8 January 2012 when the symptoms began to recur. Since that time, counsel has been out of the  
9 office ill on several more occasions and now anticipates further absences in the future.

10 Both parties have shown good cause in their pending motions to modify the  
11 scheduling order in this case. See Fed. R. Civ. P. 16(f); Johnson v. Mammoth Recreations, Inc.,  
12 975 F.2d 604, 607-08 (9th Cir. 1992). Accordingly, the court will grant plaintiff's motion for an  
13 extension of time to file a motion to compel and deem his motion to compel timely. At this time,  
14 however, the court will not rule on plaintiff's motion to compel. Instead, because defendants  
15 have not had an opportunity to respond to plaintiff's motion to compel the court will direct  
16 defense counsel to file an opposition to plaintiff's motion within thirty days. The court will also  
17 grant defendants' motion for an extension of time to file a motion for summary judgment and  
18 will direct counsel to file any dispositive motion within ninety days of the date the court rules on  
19 plaintiff's motion to compel.<sup>1</sup>

20 Also pending before the court is plaintiff's renewed motion for a court order  
21 allowing him to communicate with prisoners at other prisons and to seek declarations from any  
22 eye witnesses to the events placed in question by this action. As the court previously advised  
23 plaintiff, California Code of Regulations title 15, § 3139 provides in part:

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24 <sup>1</sup> However, no further extensions of time will be granted for this purpose. While  
25 sympathetic to counsel's medical condition, if that condition renders counsel unable to proceed  
26 in keeping with this new schedule, it may be appropriate to have the case reassigned so that a  
motion for summary judgment may be filed in the time provided for herein.

1 Inmates shall obtain written authorization from the  
2 Warden/Regional Parole Administrator or their designee/assigned  
3 probation officer, person in charge of the County Jail and/or other  
4 State Correctional Systems, at a level not less than Correctional  
5 Captain/Facility Captain or Parole Agent III, to correspond with  
6 any of the following:

- 7 (1) Inmates under the jurisdiction of any county, state or federal,  
8 juvenile or adult correctional agency.
- 9 (2) Persons committed to any county, state or federal program as a  
10 civil addict.
- 11 (3) Persons on parole or civil addict outpatient status under the  
12 jurisdiction of any county, state or federal, juvenile or adult  
13 correctional agency.

14 In a previous order, the court instructed plaintiff to attempt to avail himself of the process  
15 provided by the California Code of Regulations to obtain approval to correspond with his  
16 potential third-party inmate witnesses. According to an exhibit plaintiff has attached to his  
17 motion, on November 2, 2011, he attempted to obtain approval from prison officials by  
18 submitting an inmate/parolee request form, asking to communicate with certain inmates  
19 witnesses. CCI Mann responded to the request by interviewing plaintiff and instructing him to  
20 complete correspondence forms for inmate witnesses for Mann to process. Plaintiff failed to do  
21 so, however, and indicated that it would cause a delay that would interfere with his compliance  
22 with court imposed deadlines. Plaintiff is advised that this court has not imposed any deadline  
23 on him in this regard. Accordingly, the court will deny plaintiff's motion and direct him once  
24 more to avail himself of the process provided by the California Code of Regulations if he wishes  
25 to correspond with his potential third-party inmate witnesses.

26 Accordingly, IT IS HEREBY ORDERED that:

1. Plaintiff's motion for an extension of time to file a motion to compel (Doc. No.  
76) is granted. Plaintiff's motion to compel is deemed timely;

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2. Defendants shall file a response to plaintiff's motion to compel within thirty days of the date of this order. Plaintiff shall file a reply, if any, in accordance with Local Rule 230(1);

3. Defendants' motion to modify the scheduling order (Doc. No. 79) is granted. Defendants shall file any dispositive motion within ninety days of the court issuing an order on plaintiff's motion to compel; and

4. Plaintiff's motion for a court order allowing him to communicate with potential thirty-party inmate witnesses (Doc. No. 77) is denied.

DATED: March 19, 2012.

  
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DALE A. DROZD  
UNITED STATES MAGISTRATE JUDGE

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