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

LARRY W. KIRK,

No. CIV S-09-1866-FCD-CMK-P

Plaintiff,

vs.

ORDER

R.J. RACKLEY, et al.,

Defendants.

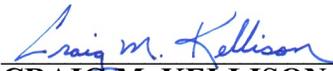
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Plaintiff, a state prisoner proceeding pro se, brings this civil rights action pursuant to 42 U.S.C. § 1983. Pending before the court is plaintiff's request to be relieved from the current scheduling order (Doc. 29).

No scheduling order has issued in this case as no answer has been filed. Defendants have been served, and have filed a motion to dismiss. Plaintiff has filed an opposition to the motion and it is currently pending before the court. The court does not generally issue a scheduling order until after an answer to plaintiff's complaint has been filed and the case is at issue. Accordingly, as no scheduling order has been filed, there is no relief available to plaintiff. The court will issue a scheduling order, if appropriate, after the motion to dismiss has been resolved.

1 Accordingly, IT IS HEREBY ORDERED that plaintiff's request (Doc. 29) to be
2 relieved from the current scheduling order is denied as moot.

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4 DATED: December 13, 2010

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6 **CRAIG M. KELLISON**
7 UNITED STATES MAGISTRATE JUDGE

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