

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

VALETTA McMURRAY,

Plaintiff,

No. CIV S-09-2245 GEB EFB PS

VS.

COUNTY OF SACRAMENTO,
et al.,

Defendants.

ORDER

This action is before the undersigned pursuant to Eastern District of California Local 302(c)(21). *See* 28 U.S.C. § 636(b)(1). On April 1, 2011, defendants filed an ex parte motion to modify the status (pretrial scheduling) order in this action. Dckt. No. 36; *see also* No. 32. Specifically, defendants seek to continue the discovery deadline from May 4, to June 17, 2011 because defendants' motion for summary judgment was continued to a beyond the initial discovery deadline (due to plaintiff's failure to respond to the motion) and defendants may need to conduct further discovery if the motion is denied. Dckt. No. 36 at 1, 3. Defendants do not seek to modify any other deadlines or dates set forth in the status (pretrial scheduling) order. *Id.*

25 A schedule may be modified upon a showing of good cause. Fed. R. Civ. P. 16(b). Good
26 cause exists when the moving party demonstrates he cannot meet the deadline despite exercising

1 due diligence. *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir. 1992).
2 “Although the existence or degree of prejudice to the party opposing the modification might
3 supply additional reasons to deny a motion, the focus of the inquiry is upon the moving party’s
4 reasons for seeking modification.” *Id.* Here, although defendants’ ex parte application is not in
5 strict compliance with the Local Rules,¹ the application is supported by good cause.

6 Accordingly, IT IS HEREBY ORDERED that:

7 1. Defendants’ application to modify the scheduling order, Dckt. No. 36, is granted.

8 2. The discovery completion deadline set forth in the status (pretrial scheduling) order is
9 continued to June 17, 2011. As provided in that order, the word “completed” means that all
10 discovery shall have been conducted so that all depositions have been taken and any disputes
11 relative to discovery shall have been resolved by appropriate order if necessary and, where
12 discovery has been ordered, the order has been complied with. Motions to compel discovery
13 must be noticed on the undersigned’s calendar in accordance with the Local Rules and must be
14 heard not later than May 18, 2011.

15 3. All other dates and deadlines set forth in the status (pretrial scheduling) order, Dckt.
16 No. 32, shall remain the same.

17 SO ORDERED.

18 DATED: April 4, 2011.



19 EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE

20
21 ¹ Local Rule 230(b) provides that “[e]xcept as otherwise provided in these Rules or as
22 ordered or allowed by the Court, all motions shall be noticed on the motion calendar of the
23 assigned Judge or Magistrate Judge.” Local Rule 144(e), which permits matters to be heard on
24 shortened time, provides that “[a]pplications to shorten time shall set forth by affidavit of
25 counsel the circumstances claimed to justify the issuance of an order shortening time [and] will
26 not be granted except upon affidavit of counsel showing a satisfactory explanation for the need
for the issuance of such an order and for the failure of counsel to obtain a stipulation for the
issuance of such an order from other counsel or parties in the action.” Additionally, Local Rule
144(c) provides that “[t]he Court may, in its discretion, grant an initial extension *ex parte* upon
the affidavit of counsel that a stipulation extending time cannot reasonably be obtained,
explaining the reasons why such a stipulation cannot be obtained and the reasons why the
extension is necessary.”