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

10 VALETTA McMURRAY,

11 Plaintiff,

No. CIV S-09-2245 GEB EFB PS

12 vs.

13 COUNTY OF SACRAMENTO,
14 et al.,

15 Defendants.

ORDER

16 This action is before the undersigned pursuant to Eastern District of California Local
17 Rule 302(c)(21). *See* 28 U.S.C. § 636(b)(1). On May 20, 2011, defendants filed an ex parte
18 application to modify the status (pretrial scheduling) order in this action, contending that the
19 schedule should be modified because “the current discovery deadline will almost certainly be
20 past before obtaining a final ruling on Defendants’ [summary judgment] Motion” and defendants
21 “wish to keep discovery as simple as possible in this case and not incur unnecessary fees or costs
22 for either side, particularly since Plaintiff is a pro se litigant.” Dckt. No. 43; *see also* Dckt. Nos.
23 32, 38. Therefore, defendants seek to continue: the discovery deadline from June 16, 2011 to
24 August 31, 2011; the last day to file discovery motions from May 18, 2011 to September 15,
25 2011; and the final pretrial conference from October 3, 2011 to November 7, 2011. Dckt. No.
26 43. Defendants do not seek to modify the February 7, 2012 trial commencement date or any

1 other dates or deadlines set forth in the status (pretrial scheduling) order. *Id.*

2 A schedule may be modified upon a showing of good cause. Fed. R. Civ. P. 16(b). Good
3 cause exists when the moving party demonstrates he cannot meet the deadline despite exercising
4 due diligence. *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir. 1992).

5 “Although the existence or degree of prejudice to the party opposing the modification might
6 supply additional reasons to deny a motion, the focus of the inquiry is upon the moving party’s
7 reasons for seeking modification.” *Id.* Here, although defendants’ ex parte application is not in
8 strict compliance with the Local Rules,¹ the application is supported by good cause.

9 Accordingly, IT IS HEREBY ORDERED that:

10 1. Defendants’ ex parte application to modify the scheduling order, Dckt. No. 43, is
11 granted.

12 2. The discovery completion deadline set forth in the status (pretrial scheduling) order is
13 continued to September 21, 2011. As provided in that order, the word “completed” means that
14 all discovery shall have been conducted so that all depositions have been taken and any disputes
15 relative to discovery shall have been resolved by appropriate order if necessary and, where
16 discovery has been ordered, the order has been complied with. Motions to compel discovery
17 must be noticed on the undersigned’s calendar in accordance with the Local Rules and must be
18 heard not later than August 24, 2011.

19 3. The final pretrial conference, which is currently scheduled for October 3, 2011, is
20 continued to November 7, 2011 at 11:00 a.m. in Courtroom No. 10 before Judge Garland E.
21 Burrell, Jr. The parties shall file pretrial statements in accordance with Local Rules 281 and 282.

22 ¹ Local Rule 230 provides that “[e]xcept as otherwise provided in these Rules or as
23 ordered or allowed by the Court, all motions shall be noticed on the motion calendar of the
24 assigned Judge or Magistrate Judge.” Local Rule 144, which permits matters to be heard on
25 shortened time, provides that “[a]pplications to shorten time shall set forth by affidavit of
26 counsel the circumstances claimed to justify the issuance of an order shortening time [and] will
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.”

1 4. All other dates and deadlines set forth in the status (pretrial scheduling) order,
2 including the February 7, 2012 trial commencement date, shall remain the same.

3 SO ORDERED.

4 DATED: May 25, 2011.


EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE