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

MICHAEL BAKER,

Plaintiff,

No. 2: 09-cv-2757 MCE KJN P

vs.

PEREZ, et al.,

Defendants.

ORDER

_____ /

On December 21, 2010, defendants filed a second motion for extension of time to respond to plaintiff's first set of interrogatories, first request for production of documents and first and second set of requests for admissions. Defendants request until February 24, 2011, to respond to these requests. The ground of this motion for extension of time is that previous defense counsel left the Office of the Attorney General due to health reasons. Newly assigned counsel has been diligently working on the case but due to the holiday season, it is difficult to contact clients. Good cause appearing, this motion is granted.

On December 21, 2010, defendants also filed a motion to modify the scheduling order. Defendants request that January 3, 2011 discovery cut-off date be extended to March 3, 2011, and that the pretrial motion cut-off date of March 25, 2011, be extended to May 25, 2011. The grounds of this request are that new defense counsel was recently assigned to the case

1 because previous defense counsel resigned due to health reasons.

2 On November 3, 2010, the discovery cut-off date was re-set to February 11, 2011,
3 and the pretrial motion cut-off date was re-set to April 22, 2011. See Dkt. No. 32. Although the
4 motion to modify the scheduling order is based on a misapprehension of the relevant dates, good
5 cause appearing the motion is granted. So that plaintiff may have sufficient time to prepare
6 motions to compel (if appropriate) regarding defendants' responses due February 24, 2011, the
7 discovery cut-off date is re-set for March 18, 2011.

8 Plaintiff has requested twenty-three subpoena forms so that he may submit
9 depositions by written questions on twenty-three non-parties. See Federal Rules of Civil
10 Procedure 31(a)(a party by depose any person by written question without leave of court; the
11 deponent's attendance may be compelled by subpoena). Good cause appearing, the Clerk of the
12 Court is directed to send plaintiff twenty-three subpoena forms.

13 On December 16, 2010, plaintiff filed a request for a thirty day extension of time
14 to serve his depositions by written question. Plaintiff alleges that he cannot serve his depositions
15 until he receives defendants' responses to his request for production of documents, now due
16 February 24, 2011. Plaintiff is ordered to serve his depositions by written questions on or before
17 the discovery cut-off date of March 18, 2011. The court will consider extending the discovery
18 cut-off date for plaintiff to file a motion to compel regarding the responses to his depositions by
19 written questions so long as the motion is made within a reasonable time of plaintiff receiving the
20 responses.

21 Accordingly, IT IS HEREBY ORDERED that:

22 1. Plaintiff's motion to continue depositions by written questions (Dkt. No. 40) is
23 granted; the Clerk of the Court is directed to send plaintiff twenty-three subpoena forms;


24 2. Plaintiff's motion for extension of time to conduct depositions by written
25 questions of non-parties (Dkt. No. 41) is granted; plaintiff must serve his depositions by written
26 question on or before March 18, 2011;

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3. Defendants' motion for extension of time to respond to plaintiff's discovery (Dkt. No. 45) is granted; defendants' responses to plaintiff's discovery requests are due on or before February 24, 2011;

4. Defendants' motion to modify the scheduling order (Dkt. No. 44) is granted; the discovery cut-off date is re-set for March 18, 2011; the pretrial motion cut-off date is re-set for May 27, 2011.

DATED: January 4, 2011


KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE

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