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

CAPITOL COMMISSION INC.

Plaintiff,

No. 2:12-MC-00093 GEB CKD

vs.

CAPITOL MINISTRIES

ORDER

Defendant.

_____/

Pending before the court is defendant's motion to compel the production of documents from non-party David Duran. Dkt. 1. The parties stipulated to a continuation of the hearing on that motion on December 5, 2012 and set the matter for hearing before the undersigned on January 9, 2013. Dkt. 5.

However, as the parties acknowledge in their joint statement (dkt. 8), the deadline for all discovery in this matter was December 31, 2012. See Eastern District of North Carolina Civil Docket Case No. 5:11-cv-00214 ("Case No. 5:11-cv-00214"), Dkt. 64. The district judge's August 7, 2012 amended scheduling order provides that "all discovery shall be commenced in time to be completed by 31 December 2012." Case No. 5:11-cv-00214, Dkt. 64. Pending on that court's docket is a joint motion to modify the scheduling order and extend the discovery deadline by 90 days. Case No. 5:11-cv-00214, Dkt. 78. Unless that deadline is extended by the district

1 judge, however, the undersigned is bound by the August 7, 2012 amended scheduling order.

2 Therefore, defendant's motion is untimely under the current discovery deadline.

3 Accordingly, the instant motion should be denied without prejudice, subject to a renewal of the
4 motion upon the district judge's extension of the discovery deadline.

5 Accordingly, IT IS HEREBY ORDERED that:

6 1. The January 9, 2013 hearing on the defendant's motion is vacated; and

7 2. The defendant's motion to compel the production of documents (dkt. 1) is
8 denied without prejudice.

9 Dated: January 7, 2013

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11 CAROLYN K. DELANEY
12 UNITED STATES MAGISTRATE JUDGE

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