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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

CHARLES E. CRAYON,  
Plaintiff,  
v.  
RICK HILL, et al.,  
Defendants.

No. 2: 13-cv-0350 MCE KJN P

ORDER

Plaintiff is a state prisoner, proceeding without counsel, with a civil rights action pursuant to 42 U.S.C. § 1983. Pending before the court is defendants’ request to modify the scheduling order. (ECF No. 68.) For the reasons stated herein, this motion is granted.

Pursuant to the order filed September 11, 2014, the discovery deadline is January 7, 2015, and the dispositive motion deadline is March 14, 2015. (ECF No. 64.)

In the pending request, defense counsel states that on November 14, 2014, she spoke with plaintiff over the telephone regarding his failure to respond to various discovery requests. Plaintiff told defense counsel that he had not responded because he was in administrative segregation on suicide watch. Plaintiff informed defense counsel that, as a result of this status, he did not have access to his legal property. Defense counsel informed plaintiff that she would schedule his deposition for December 23, 2014, in order to give him time to obtain his legal property. Shortly thereafter, defense counsel served plaintiff with a notice of deposition and

1 document request.

2 On December 23, 2014, defense counsel (working in the San Diego office of the Attorney  
3 General's Office) traveled to Corcoran State Prison to depose plaintiff. When she arrived,  
4 plaintiff refused to participate in the deposition because he claimed that he was not physically or  
5 mentally able to do so. Plaintiff told defense counsel that he was not thinking clearly, had made  
6 two suicide attempts, his doctors were trying to get his medications corrected, and he would not  
7 participate in the deposition. Plaintiff told defense counsel that he did not know when he would  
8 be physically and mentally able to participate in discovery. Defense counsel and plaintiff  
9 discussed bringing a motion to continue the discovery deadline to April 30, 2015, so that defense  
10 counsel can take plaintiff's deposition in February, March or April 2015.

11 In the pending motion, defense counsel requests that the discovery deadline be reset to  
12 April 30, 2015, so that she may take plaintiff's deposition, and that the dispositive motion  
13 deadline be reset to June 30, 2015. Defense counsel states that due to plaintiff's claims of  
14 physical and mental difficulties causing him to be unable to submit to a deposition, including his  
15 claims of being suicidal, defense counsel could not threaten plaintiff with a motion for  
16 terminating sanctions.

17 Good cause appearing, defendants' motion to modify the scheduling order is granted. If  
18 plaintiff does not participate in his deposition in the time ordered, defendants may file a motion  
19 for terminating sanctions if it is determined that plaintiff's claims of physical and mental  
20 difficulties are not well supported. However, if plaintiff's claims of physical and mental  
21 difficulties are well supported, and he cannot participate in his deposition due to these difficulties,  
22 defendants shall notify the court. Following receipt of this briefing, the court will issue further  
23 orders.

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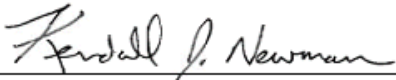
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1           Accordingly, IT IS HEREBY ORDERED that defendants' request to modify the  
2 scheduling order (ECF No. 68) is granted; the discovery deadline is extended to April 30, 2015,  
3 for the purpose of plaintiff's deposition only; the dispositive motion cut-off deadline is extended  
4 to June 30, 2015.

5 Dated: January 5, 2015

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KENDALL J. NEWMAN  
UNITED STATES MAGISTRATE JUDGE

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