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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

CHARLES C. JAMES,
Plaintiff,
v.
D. ARTIS, et al.,
Defendants.

No. 2:13-cv-0886 JAM CKD P

ORDER AND
FINDINGS AND RECOMMENDATIONS

Defendants have requested relief from the April 2, 2015 Discovery and Scheduling order. (ECF No. 40.) The docket indicates that this order was served on plaintiff. However, defendants' counsel has learned, and the record indicates, that plaintiff has not been in the custody of the California Department of Corrections and Rehabilitation since his parole on February 10, 2015. (See id. at 7-8.)

Plaintiff has not kept the court informed of his current address pursuant to Local Rule 182(f), which requires that a party appearing in propria persona inform the court of any address change. (Id.) Defendants' counsel attempted to locate plaintiff by contacting the prison Litigation Coordinator and plaintiff's parole agent; however, neither could provide a current address for him. (Id.) As a result, defendants' counsel is unable to depose plaintiff or complete discovery in this action. (Id.)

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1 Modification of the court's scheduling order requires a showing of good cause, Fed. R.
2 Civ. P. 16(b)(4), and good cause requires a showing of due diligence, Johnson v. Mammoth
3 Recreations, Inc., 975 F.2d 604, 609 (9th Cir.1992). To establish good cause, the party seeking
4 the modification of a scheduling order must generally show that even with the exercise of due
5 diligence, they cannot meet the requirement of the order. Id. The court may also consider the
6 prejudice to the party opposing the modification. Id. Here, good cause appearing, the court will
7 grant defendants' request for relief from the Discovery and Scheduling order.

8 Accordingly, IT IS HEREBY ORDERED that defendants' request for relief from the
9 Discovery and Scheduling Order (ECF No. 40) is granted.

10 IT IS HEREBY RECOMMENDED that this action be dismissed for plaintiff's failure to
11 keep the court apprised of his current address. See Local Rules 182(f) and 110.

12 These findings and recommendations are submitted to the United States District Judge
13 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
14 after being served with these findings and recommendations, plaintiff may file written objections
15 with the court. The document should be captioned "Objections to Magistrate Judge's Findings
16 and Recommendations." Plaintiff is advised that failure to file objections within the specified
17 time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153
18 (9th Cir. 1991).

19 Dated: August 6, 2015

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22 CAROLYN K. DELANEY
23 UNITED STATES MAGISTRATE JUDGE
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