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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,
Plaintiff,
v.
DONALD M. WANLAND, JR.,
Defendant.

No. 2:13-cv-2343-KJM-KJN PS

ORDER

Presently pending before the court is the United States’ second motion to modify the pretrial scheduling order. (ECF No. 49.) Defendant has opposed the motion. (ECF No. 50.) For the reasons discussed below, the court GRANTS the motion.

The United States requests an approximately one-month extension of the law and motion completion deadline from November 19, 2015, to December 18, 2015. The United States explains that it was difficult to schedule defendant’s deposition due to defendant’s anticipated transfer to a different prison, which ultimately did not occur. When the United States eventually took defendant’s deposition on August 24, 2015, the results of that deposition led the United States to take the deposition of defendant’s former accountant, Steven Campbell, on September 30, 2015. According to the United States, it has not yet received a transcript of Mr. Campbell’s deposition testimony, which the United States would like to include in its anticipated summary judgment motion, thus making compliance with the current November 19, 2015 law and motion

1 completion deadline difficult to achieve.

2 Based on the above, the court finds that the United States has shown good cause to modify
3 the scheduling order pursuant to Federal Rule of Civil Procedure 16(b)(4). The requested
4 extension is very brief and would not impact the final pretrial conference and trial dates, which
5 are scheduled for March 3, 2016, and April 4, 2016, respectively. (See ECF No. 34.)

6 Contrary to defendant's contention, granting the United States' motion would not be
7 inconsistent with, or impair the integrity of, the court's prior orders. On September 4, 2015, the
8 court denied defendant's motion to modify the scheduling order, but that motion requested a
9 significantly longer extension of all case deadlines and was unsupported by good cause for the
10 reasons discussed in the court's order. (See ECF No. 41.) By contrast, the United States requests
11 a brief, one-month extension of the law and motion completion deadline only, which would not
12 impact other case deadlines and is supported by good cause.¹ Furthermore, defendant's argument
13 that the United States' request is inconsistent with the court's prior admonition that no further
14 discovery motions would be entertained is meritless. The United States completed its discovery
15 by the court's September 30, 2015 deadline (ECF No. 34) and is not requesting an extension of
16 time to conduct discovery. To be sure, the court observed that case deadlines would be strictly
17 enforced, but that general observation does not preclude a subsequent extension that satisfies the
18 good cause standard.

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22 ¹ In opposing the United States' motion, defendant also points to the United States' representation
23 in its November 4, 2014 status report that it anticipated filing a motion for summary judgment as
24 early as January 31, 2015. (ECF No. 31.) However, that representation must be viewed in
25 context. In that same status report, the United States also requested a stay of discovery pending
26 resolution of such a motion for summary judgment. In the subsequent November 24, 2014 initial
27 scheduling order, the court declined to impose a stay on discovery, and instead scheduled specific
28 deadlines for completion of discovery and law and motion. In light of that order, the United
States may well have opted to conduct discovery prior to filing a dispositive motion, which it was
plainly entitled to do under the terms of the scheduling order. Because the United States has
complied with the scheduling order, and has timely sought extensions of the scheduling order
supported by good cause, its initial representation in the November 4, 2014 status report simply
does not govern the resolution of the present motion.


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Accordingly, for the reasons outlined above, IT IS HEREBY ORDERED that:

1. The United States’ second motion to modify the pretrial scheduling order (ECF No. 49) is GRANTED.
2. All law and motion, except as to discovery-related matters, shall be completed by December 18, 2015. The parties are reminded that the word “completed” in this context means that all law and motion matters shall be fully briefed and submitted by that date. In accordance with the initial scheduling order, the opposition or statement of non-opposition to any motion shall be filed with the court 30 calendar days after service of the motion, and any reply brief shall be filed with the court 14 calendar days after service of the opposition. No further briefing will be permitted, and no oral argument scheduled, unless otherwise ordered by the court. Thus, practically speaking, a motion must be filed so as to allow for the filing of the reply brief no later than December 18, 2015.

IT IS SO ORDERED.

Dated: October 27, 2015


KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE