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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

THOMAS FRANKLIN HAMMITT,
Plaintiff,
v.
BUTTE COUNTY JAIL, et al.,
Defendants.

No. 2: 16-cv-2644 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 are plaintiff’s motions for extension of time to conduct discovery filed September 13, 2017, and September 22, 2017. (ECF Nos. 26, 28.) Defendants filed an opposition to plaintiff’s motion filed September 22, 2017. (ECF No. 29.) On September 6, 2017, plaintiff filed a motion for an extension of time, which also appears to seek additional time to conduct discovery. (ECF No. 25.)

Legal Standard

Once a district court has established a deadline for amended pleadings, and that deadline has passed, Federal Rule of Civil Procedure (“Rule”) 16 applies to modify a scheduling order. Coleman v. Quaker Oats Co., 232 F.3d 1271, 1294 (9th Cir. 2000); Johnson v. Mammoth Recreations, Inc., 975 F.2d 604, 607-608 (9th Cir. 1992). A pretrial scheduling order can only be modified “upon a showing of good cause.” Fed. R. Civ. P. 16(b). “Good cause” focuses on the

1 diligence of the party seeking an amendment. Johnson, 975 F.2d at 609. The pretrial schedule
2 may be modified “if it cannot reasonably be met despite the diligence of the party seeking the
3 extension.” Id.

4 Discussion

5 Pursuant to the May 18, 2017 scheduling order, discovery closed on September 8, 2017.
6 (ECF No. 20.) All requests for discovery were to be served not later than sixty days prior to that
7 date. (Id.)

8 Plaintiff’s September 6, 2017 motion asks for a sixty days extension of time because
9 plaintiff is having trouble understanding how to proceed in court. (ECF No. 25.) Attached to the
10 motion is a declaration by plaintiff stating that he was recently transferred from county jail to
11 state prison. (Id.) Plaintiff states that he is having difficulty getting to the law library and needs
12 more time to understand the court process. (Id.) On August 22, 2017, plaintiff filed a notice of
13 change of address reflecting his transfer to state prison. (ECF No. 24.)

14 In the motion filed September 13, 2017, plaintiff requests an extension of time to conduct
15 discovery because defendants did not provide him with the requested documents. (ECF No. 26.)
16 Plaintiff again alleges that he does not have adequate law library access. (Id.) In the motion filed
17 September 22, 2017, plaintiff alleges that defense counsel provided him with only one of his
18 requested documents, which was the wrong year. (ECF No. 28.) Plaintiff alleges that he
19 requested “CFMG, Inc. 2016 Operations Manual,” but defense counsel provided him with the
20 2017 manual. (Id.) Plaintiff requests that discovery be extended to November 24, 2017.

21 In the opposition, defendants state that on July 28, 2017, defendants received plaintiff’s
22 request for production of documents. (ECF No. 29-1 at 1.) Plaintiff requested the entire “CFMG
23 Operation Manual for medical and mental health,” but did not specify the year. (Id.) On August
24 28, 2017, defendants responded to plaintiff,

25 No such document exists as set forth in the request. Responding
26 parties assume that plaintiff seeks the Policies and Procedures
27 Manual for the entity providing medical services in the Butte
28 County Jail: Correctional Medical Group Companies, Inc. A full
and complete copy of that Policy and Procedures Manual is
produced herewith.

1 (ECF No. 29-2 at 3-4.)

2 In the opposition, defendants state that while plaintiff did not request the 2016 Policies
3 and Procedures Manual, defendants have no objection to responding to such a request.

4 The undersigned finds that plaintiff has not shown good cause to reopen discovery so that
5 he may serve defendants with new discovery requests. However, because plaintiff was
6 transferred to state prison shortly before the discovery deadline ran, he has shown good cause for
7 an extension of time to file a motion to compel. Accordingly, plaintiff is granted thirty days from
8 the date of this order to file a motion to compel.

9 Defendants are also directed to serve plaintiff with the 2016 Policies and Procedures
10 Manual within ten days of the date of this order. Plaintiff's receipt of this document may obviate
11 the need for a motion to compel.

12 Accordingly, IT IS HEREBY ORDERED that:

13 1. Plaintiff's motions for extensions of time to conduct discovery (ECF Nos. 25, 26, 28)
14 are granted with respect to plaintiff's request for an extension of time to file a motion to compel;
15 plaintiff is granted thirty days from the date of this order to file a motion to compel; plaintiff's
16 motion for an extension of time to conduct discovery in order to serve new discovery requests is
17 denied;

18 2. Within ten days of the date of this order, defendants shall serve plaintiff with the 2016
19 Policies and Procedures Manual.

20 Dated: October 2, 2017

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KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE