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8 IN THE UNITED STATES DISTRICT COURT  
9 FOR THE EASTERN DISTRICT OF CALIFORNIA  
10 SACRAMENTO DIVISION

12 **WILLIAM BARKER,**

13 Plaintiff,

14 v.

16 **OSEMWINGIE, et al.,**

17 Defendants.

No. 2:16-cv-03008-JAM-CKD (PC)

**STIPULATION AND PROPOSED  
ORDER TO MODIFY SCHEDULING  
ORDER TO EXTEND DISPOSITIVE  
MOTION DEADLINE BY TWENTY-  
ONE DAYS**

Trial Date: None  
Action Filed: April 12, 2017

18  
19 Under Federal Rules of Civil Procedure 16(b)(4) and Local Rule 143, the parties, through  
20 their counsel of record, agree to and request a modification of the March 26, 2018 Scheduling  
21 Oder (ECF No. 53) to extend the dispositive-motion deadline by twenty-one days. Good cause  
22 exists to grant this stipulated request because the parties require more time to meet and confer  
23 about the motion Defendants intend to file and to file the proposed motion.

24 A scheduling order may be modified only upon a showing of good cause and by leave of  
25 Court. Fed. R. Civ. P. 6(b)(1)(A), 16(b)(4); *see, e.g., Johnson v. Mammoth Recreations, Inc.*, 975  
26 F.2d 604, 609 (describing the factors a court should consider in ruling on such a motion). In  
27 considering whether a party moving for a schedule modification has good cause, the Court  
28 primarily focuses on the diligence of the party seeking the modification. *Johnson*, 975 F.2d at

1 609 (citing Fed. R. Civ. P. 16 advisory committee’s notes of 1983 amendment). “The district  
2 court may modify the pretrial schedule ‘if it cannot reasonably be met despite the diligence of the  
3 party seeking the amendment.’” *Id.* (quoting Fed. R. Civ. P. 16 advisory committee notes of 1983  
4 amendment).

5 On March 26, 2018, the Court issued a Scheduling Order requiring, as relevant here, that  
6 dispositive motions be filed no later than April 3, 2019, and be set for hearing no later than May  
7 1, 2019. (ECF No. 53.) The parties request an extension of the dispositive-motion deadlines  
8 because they require additional time to meet and confer about the intended motion to ascertain if  
9 they can agree on a statement of undisputed facts and which issues and facts are truly disputed.  
10 Defendants also require more time to file the motion once the parties’ information discussions are  
11 completed.

12 The parties have timely completed fact and expert discovery. Although the attorney for  
13 Defendants has started the statement of undisputed facts in support of Defendants’ intended  
14 motion, she will not be able to complete it and provide it to Plaintiff’s attorney to review until the  
15 first week of April 2019. Defense counsel has had several pressing deadlines that prevented her  
16 from completing the draft statement for Plaintiff’s review sooner. These deadlines included but  
17 are not limited to: objections to findings and recommendation filed in *Herrera v. Redding* (E.D.  
18 Cal. No. 1:14-cv-0164 LJO-BAM), Joint Scheduling Report in *J.A.J. v. Jimenez* (E.D. Cal. No.  
19 1:18-cv-1138 DAD-SKO), expert disclosures in *Lopez v. McPeck* (Tehama County Superior  
20 Court No. 72161), and settlement conference statement and preparations in *Chaudhry v. Smith*  
21 (E.D. Cal. No. 1:16-cv-1243 SAB). In addition, defense counsel has a settlement conference in  
22 *Chaudhry* in Fresno on April 3, which is expected to last most of the day; she has an all-day  
23 training on April 5 in San Francisco; and April 1 is a state holiday. These events will limit  
24 defense counsel’s availability during the first week of April to discuss and complete the motion.  
25 For these reasons, the parties will be unable to meet and confer about, and Defendants will be  
26 unable to complete and file, the proposed summary-judgment motion by the current deadlines.  
27 Allowing the parties to meet and confer before the motion is filed may narrow the issues and  
28 factual disputes that the Court needs to decide, and thereby simplifying the motion.

1           There are no other deadlines pending in this matter other than ones related to dispositive  
2 motions. And the extension will not substantial delay the resolution of this matter. Good cause  
3 therefore exists to the grant the requested fourteen-day extension.

4           IT IS SO STIPULATED.

5  
6 Dated: April 2, 2019

Respectfully submitted,

7           XAVIER BECERRA  
8           Attorney General of California  
9           PETER A. MESHOT  
            Supervising Deputy Attorney General

10           */s/ Diana Esquivel*

11           DIANA ESQUIVEL  
12           Deputy Attorney General  
            Attorneys for Defendants Osemwingie and Ramiscal

13  
14 Dated: April 2, 2019

Disabled Advocacy Group, APLC

15           */s/ Scottlynn J. Hubbard* (as authorized 4/2/19)

16           SCOTTLYNN J. HUBBARD  
17           Attorney for Plaintiff William Barker

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~~Proposed~~ ORDER

Good cause appearing, the parties' stipulated request to modify the dispositive-motion deadlines is GRANTED. The March 26, 2018 Scheduling Order (ECF No. 53) is modified as follows:

The law and motion cut off date shall now be May 22, 2019. Any notices of motion and accompanying motion shall be filed on or before April 24, 2019, with the hearing noticed for no later than May 22, 2019.

In all other respects, the March 26, 2018 Scheduling Order remains in full force and effect.

IT IS SO ORDERED.

Dated: April 4, 2019

  
\_\_\_\_\_  
CAROLYN K. DELANEY  
UNITED STATES MAGISTRATE JUDGE

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