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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

WAYDE HOLLIS HARRIS,
Plaintiff,
v.
S. KERNAN, et al.,
Defendants.

No. 2:17-cv-0680 TLN KJN P

ORDER AND REVISED SCHEDULING
ORDER

Plaintiff is a state prisoner, proceeding without counsel. This action proceeds on plaintiff’s Eighth Amendment medical claims against defendant Dr. Kuersten. (ECF No. 22 at 9-10.) The discovery deadline has been extended once, to May 23, 2019, at plaintiff’s request. (ECF No. 52.) However, because defendant was granted two extensions of time to respond to plaintiff’s requests for interrogatories, plaintiff was advised that he could move to extend the discovery deadline so long as such motion was accompanied by his motion to compel further responses to the interrogatories. (ECF No. 58.) Plaintiff timely complied.

Defendant did not file an opposition to the motion to extend discovery.

“The district court is given broad discretion in supervising the pretrial phase of litigation.” Johnson v. Mammoth Recreations, Inc., 975 F.2d 604, 607 (9th Cir. 1992) (citation and internal quotation marks omitted). Rule 16(b) provides that “[a] schedule may be modified only for good cause and with the judge’s consent.” Fed. R. Civ. P. 16(b)(4). “The schedule may be modified

1 'if it cannot reasonably be met despite the diligence of the party seeking the extension.'”

2 Zivkovic v. Southern California Edison Co., 302 F.3d 1080, 1087 (9th Cir. 2002) (quoting
3 Johnson, 975 F.2d at 607).

4 Defendant’s answers to interrogatories were dated May 16, 2019, thus depriving plaintiff
5 of an opportunity to receive and review defendant’s answers and prepare and file a motion to
6 compel further responses prior to the May 23, 2019 discovery deadline. Good cause appearing,
7 plaintiff’s motion to extend the discovery deadline is granted. Discovery is reopened solely for
8 the purpose of resolving plaintiff’s motion to compel further responses to interrogatories. No new
9 discovery requests may be propounded by any party. Defendant shall file an opposition to the
10 motion within thirty days from the date of this order. In light of this order, the pretrial motions
11 deadline is vacated, and will be reset following resolution of plaintiff’s motion to compel. No
12 party shall file a dispositive motion until after the court sets the new pretrial motions deadline.

13 Accordingly, IT IS HEREBY ORDERED that:

- 14 1. Plaintiff’s motion to extend the discovery deadline (ECF No. 62) is granted;
- 15 2. Discovery is extended solely for the purpose of resolving plaintiff’s motion to compel
16 discovery (ECF No. 63);
- 17 3. Within thirty days from the date of this order, defendant shall file an opposition to
18 plaintiff’s motion to compel discovery (ECF no. 63); plaintiff may file a reply fourteen days
19 thereafter; and
- 20 4. The August 15, 2019 pretrial motions deadline (ECF No. 52) is vacated and will be
21 reset following resolution of plaintiff’s motion to compel discovery. No party shall file a
22 dispositive motion until after the court sets the new pretrial motions deadline.

23 Dated: July 29, 2019

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26 KENDALL J. NEWMAN
27 UNITED STATES MAGISTRATE JUDGE

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