

1 Plaintiff states that defendants' counsel has refused to voluntarily provide requested
2 discovery and that "Plaintiff's counsel reasonably expected that Defendants would provide
3 discovery to Plaintiff, despite it being past the close of discovery, so that Plaintiff, who had been
4 pro se during the discovery period, could prepare for depositions to be conducted by June 30,
5 2021." ECF No. 39 at 4. Based on the motion and attached exhibits, it appears that rather than
6 requesting defendants agree to a stipulated request to re-open discovery, plaintiff instead outlined
7 his discovery requests, including depositions he sought to take, and assumed defendants would
8 provide the requested discovery despite discovery being closed. ECF No. 39; ECF No. 39-1.
9 This is not a reasonable assumption. Defendants are under no obligation to respond to discovery
10 requests after the close of discovery, regardless of plaintiff's former pro se status, and when a pro
11 se prisoner-plaintiff retains counsel after the close of discovery, the proper procedure is for
12 plaintiff to move to re-open discovery, ideally through a stipulated request. Although there is no
13 evidence that plaintiff sought a stipulation from defendants to re-open and extend discovery, see
14 L.R. 144, the request to re-open discovery will be granted with modification to allow for the
15 forty-five-day deadline for responding to written discovery requests. See ECF No. 31 at 5.

16 The court notes that because plaintiff is now represented by counsel, Local Rule 230(l) no
17 longer applies. Going forward, motions should be noticed in accordance with the non-prisoner
18 provisions of Local Rule 230, unless governed by a separate Local Rule (e.g., L.R. 144; L.R.
19 251). The parties are also advised that in the event of discovery disputes, email communications
20 and letters do not satisfy the requirement to meet and confer in good faith, and the undersigned
21 offers informal telephonic conferences to resolve discovery disputes outside of the formal Local
22 Rule 251 procedures.¹

23 Accordingly, IT IS HEREBY ORDERED that:

- 24 1. Plaintiff's motion to amend the scheduling order, ECF No. 39, is GRANTED.
- 25 2. Plaintiff may conduct discovery until **July 23, 2021**, and any motions necessary to

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27 ¹ The procedure is available on the court's website at
28 <http://www.caed.uscourts.gov/caednew/index.cfm/judges/all-judges/united-states-magistrate-judge-allison-claire-ac/>.

1 compel discovery shall be filed by that date. All requests for discovery pursuant to Federal Rules
2 of Civil Procedure 31 (deposition by written question), 33 (interrogatories), 34 (production of
3 documents), or 36 (admissions) shall be served no later than **May 28, 2021**.

4 3. Going forward, motions should be noticed in accordance with the non-prisoner
5 provisions of Local Rule 230, unless governed by a separate Local Rule, and Local Rule 251 shall
6 apply to any discovery disputes.

7 DATED: May 12, 2021

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9 ALLISON CLAIRE
10 UNITED STATES MAGISTRATE JUDGE

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