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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

PAUL C. TOMASINI,  
Plaintiff,  
v.  
JAMES CHAU, et al.,  
Defendants.

No. 2:18-cv-0286 DAD AC P

ORDER

Before the court are plaintiff’s motion for reconsideration of the order denying his request for a stay (ECF No. 65) and his motion to voluntarily dismiss defendant D. Gentry (ECF No. 66).

Reconsideration of prior orders is generally available only on grounds of newly discovered evidence, clear error, or an intervening change in the controlling law. Marlyn Nutraceuticals, Inc. v. Mucos Pharma GmbH & Co., 571 F.3d 873, 880 (9th Cir. 2009). None of these factors are present here. The motion for a stay was based on plaintiff’s separation from his legal property; he now informs the court that he has been reunited with his files but faces other circumstances that warrant a stay. ECF No. 65. The motion for reconsideration will be denied, but the operative discovery and scheduling order will be amended in light of the status of the case generally.

On December 8, 2022, defendants filed a notice of death of defendant D. Gentry. ECF No. 58. Plaintiff has now notified the court that he will not be seeking to substitute Gentry’s

1 successors in interest pursuant to Federal Rule of Civil Procedure 25(a), but wishes instead to  
2 dismiss Gentry. ECF No. 66. The motion will be granted.

3 The court previously indicated that discovery deadlines would be reset once the status of  
4 defendant Gentry was clarified. ECF No. 63 at 3. New discovery and dispositive motions  
5 deadlines are accordingly set below. Due to the number of extensions previously granted, which  
6 have continued discovery well beyond the original deadline of June 24, 2022 (ECF No. 38 at 5),  
7 the discovery period will be left open for a relatively brief additional period.

8 CONCLUSION

9 For the reasons state above, IT IS HEREBY ORDERED that:

- 10 1. Plaintiff's motion for reconsideration (ECF No. 65) is DENIED;
- 11 2. Plaintiff's motion to voluntarily dismiss deceased defendant D. Gentry and any and all  
12 of her successors in interest (ECF No. 66) is GRANTED. See generally Federal Rule of Civil  
13 Procedure 41(a)(2);
- 14 3. The operative Discovery and Scheduling Order is modified as follows:
- 15 a. The parties may conduct discovery until April 21, 2023. Any motions to compel  
16 discovery shall be filed by that date;
- 17 b. All pretrial motions, except motions to compel, shall be filed on or before July 14,  
18 2023.

19 DATED: March 9, 2023

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21 ALLISON CLAIRE  
22 UNITED STATES MAGISTRATE JUDGE  
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