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8	UNITED STATES DISTRICT COURT	
9	FOR THE EASTERN DISTRICT OF CALIFORNIA	
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11	GLENN O'CONNOR,	No. 2:18-cv-1057 DB P
12	Plaintiff,	
13	v.	<u>ORDER</u>
14	W. PEREZ, et al.,	
15	Defendants.	
16		
17	Plaintiff is a state prisoner proceeding pro se with a civil rights action under 42 U.S.C. §	
18	1983. Plaintiff claims defendants violated his Eighth Amendment rights. Presently before the	
19	court is defendants' third motion to modify the court's November 6, 2019 Discovery and	
20	Scheduling Order ("DSO"). (ECF No. 104.)	
21	On April 27, 2020 defendants requested and were granted a sixty-day extension of time	
22	based on their inability to depose the plaintiff due to the COVID-19 pandemic. (ECF Nos. 83,	
23	84.) On June 30, 2020, defendants sought a second modification of the DSO also based on their	
24	inability to take plaintiff's deposition. (ECF No. 90.) In their second motion, they sought a	
25	ninety-day extension of both the close of discovery and the dispositive motion deadline. The	
26	undersigned granted the motion in part, extending the discovery deadline only as to the taking of	
27	plaintiff's deposition and extending the dispositive motion deadline. (ECF No. 91.)	
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Defendants have now moved for an additional sixty-day extension of the discovery deadline based on difficulties in taking plaintiff's deposition due to the COVID-19 pandemic. Defendants argue that they are unable to take plaintiff's deposition in person, there is currently a high demand on video equipment at California Health Care Facility ("CHCF"), and taking plaintiff's deposition by phone is impossible based on limitations on staff and inmate movement. (ECF No. 104 at 4-5.) Defendants further state that the California Department of Corrections and Rehabilitation ("CDCR"), has requested depositions be continued and does not anticipate being able to accommodate depositions until October. (Id. at 3.) Defendants also indicate, that as of the filing of their motion, there were no known active inmate cases of COVID-19 at CHCF.

It is unclear from defendants' motion if they have attempted to schedule a deposition. However, they have indicated that CDCR anticipates it may be able to accommodate depositions in October. The court finds that defendants have not shown good cause for a sixty-day extension of time. Accordingly, the court will grant a thirty-day extension of time to conduct plaintiff's deposition and to the dispositive motion deadline. In any future motion to extend the deadline to conduct plaintiff's deposition, defendants should indicate what efforts have been made to schedule plaintiff's deposition.

Accordingly, IT IS HEREBY ORDERED that:

- 1. Defendant's motion to modify the Discovery and Scheduling Order (ECF No. 104) is granted in part;
- 2. The deadline for taking plaintiff's deposition is continued to November 5, 2020.
- 3. The deadline for filing dispositive pre-trial motions is continued to January 22, 2021.

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4. In all other respects, the court's November 6, 2019 Discovery and Scheduling Order remains the same. Dated: October 4, 2020 UNITED STATES MAGISTRATE JUDGE DLB:12 DLB:1/Orders/Prisoner/Civil.Rights/ocon1057.eot(D)3