

1 Plaintiff is reminded that per the scheduling order:

2 1. Discovery requests shall be served by the party seeking the discovery on all
3 parties to the action.[] [If an attorney has filed a document with the court on behalf
4 of any defendant, then plaintiff, must serve documents on that attorney and not on
5 the defendant. See Fed. R. Civ. P. 5(b).] *Discovery requests shall not be filed with
6 the court except when required by Local Rules 250.1, 250.2, 250.3 and 250.4.*

7 2. Responses to written discovery requests shall be due forty-five days after the
8 request is served.

9 3. *The parties are cautioned that filing of discovery requests or responses, except as
10 required by rule of court, may result in an order of sanctions, including, but not
11 limited to, a recommendation that the action be dismissed or the answer stricken.*

12 ECF No. 125 at 5 (emphasis added). Additionally, plaintiff had until **December 9, 2024**, to serve
13 discovery requests; has until **February 7, 2025**, to complete discovery and submit motions to
14 compel; and has until **May 2, 2025**, to file pretrial motions, including motions for summary
15 judgment. See ECF No. 125 at 6.

16 To the extent plaintiff erroneously served the court rather than defendants with his
17 discovery requests, plaintiff should promptly seek a brief modification to the scheduling order to
18 allow him to properly serve his requests on defendants. To seek such modification, plaintiff must
19 establish good cause and excusable neglect. See Fed. R. Civ. P. 6(b)(1)(B) (“When an act may or
20 must be done within a specified time, the court may, for good cause, extend the time . . . on
21 motion made after the time has expired if the party failed to act because of excusable neglect.”);
22 Fed. R. Civ. P. 16(b)(4) (a scheduling order “may be modified only for good cause and with the
23 judge’s consent.”). “Excusable neglect ‘encompasses situations in which the failure to comply
24 with a filing deadline is attributable to negligence,’ and includes ‘omissions caused by
25 carelessness.’” Lemoge v. United States, 587 F.3d 1188, 1192 (9th Cir. 2009) (internal citation
26 and alterations omitted) (quoting Pioneer Inv. Servs. Co. v. Brunswick Assocs., Ltd., 507 U.S.
27 380, 388, 394 (1993)). To determine whether there is excusable neglect, the court considers: “(1)
28 the danger of prejudice to the opposing party; (2) the length of the delay and its potential impact
on the proceedings; (3) the reason for the delay; and (4) whether the movant acted in good faith.”
Bateman v. United States Postal Serv., 231 F.3d 1220, 1223-24 (9th Cir. 2000) (citing Pioneer,
507 U.S. at 395). This assessment is an equitable one that is intended to take into consideration
all relevant circumstances, and not just the four factors listed above. Briones v. Riviera Hotel &

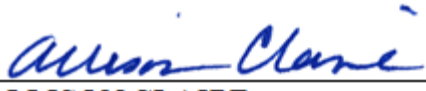
1 Casino, 116 F.3d 379, 381 (9th Cir. 1997).

2 IT IS HEREBY ORDERED that:

3 1. Plaintiff's motion for correction or clarification (ECF No. 128) is granted. The current
4 date for the close of discovery in this matter is February 7, 2025.

5 2. Plaintiff's motions to compel (ECF Nos. 129, 130) are denied.

6 DATED: January 6, 2025

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8 ALLISON CLAIRE
9 UNITED STATES MAGISTRATE JUDGE

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