

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA**

BRANDON MICHAEL LANDRETH,  
Plaintiff,  
v.  
BHUPINDER LEHIL, et al.,  
Defendants.

No. 2:20-CV-0472-DMC-P

ORDER

Plaintiff, a prisoner proceeding pro se, brings this civil rights action under 42 U.S.C. § 1983. Before the Court is Plaintiff’s motion to revise the Court’s scheduling order. ECF No. 29. Plaintiff moves to revise the scheduling order because one of the defendants in this case, Jonovan Ottenbacher, has not been served. See id. The Court construes the motion as a motion to suspend the scheduling order pending service on Defendant Ottenbacher.

There are five named defendants in this case: Lehil, Carrick, Posson, Nguyen, and Ottenbacher. Lehil, Carrick, and Posson waived service. ECF Nos. 17, 19. Two defendants, Nguyen and Ottenbacher did not. ECF Nos. 16, 17. It appears to the Court, after conferring with the Clerk of the Court and the United States Marshal Service, that neither Nguyen nor Ottenbacher were properly served. Nguyen, however, filed an answer alongside Lehil, Carrick, and Posson. ECF No. 20. Ottenbacher has yet to be served, and he has not filed any response to the complaint.

///

1           It further appears to the Court that the United States Marshal Service will reattempt  
2 service on Defendant Ottenbacher. After Lehil, Carrick, Posson, and Nguyen filed an answer, the  
3 Court issued a scheduling order with respect to those defendants on January 13, 2021. ECF No. 21.  
4 Because Defendant Ottenbacher has not been served, the Court will suspend its discovery and  
5 scheduling order so that this case proceeds on a uniform timeline for all parties.

6           Accordingly, IT IS HEREBY ORDERED THAT:

7           1.     Plaintiff's motion to revise the scheduling order, construed as a motion to  
8 suspend the scheduling order, is **GRANTED**.

9           2.     The Court's scheduling order (ECF No. 21) and all other orders modifying  
10 the litigation schedule are **SUSPENDED** pending service of the complaint upon Defendant  
11 Ottenbacher. The Court will reset the discovery and litigation schedule once Ottenbacher files a  
12 response in this case.

13           3.     Should Ottenbacher appear in this case represented by the same counsel as  
14 Defendants Lehil, Carrick, Posson, and Nguyen, Defendants may file an amended responsive  
15 pleading within twenty-one (21) days of service of the complaint upon Ottenbacher.

16  
17 Dated: July 13, 2021



18 \_\_\_\_\_  
19 DENNIS M. COTA  
20 UNITED STATES MAGISTRATE JUDGE  
21  
22  
23  
24  
25  
26  
27  
28