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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

OMAR ERNEST EPPS,

Plaintiff,

vs.

N. GRANNIS, et al.,

Defendants.

Case No. 10cv1949 BEN (KSC)

**ORDER DENYING
DEFENDANTS' EX PARTE
APPLICATION TO
CONTINUE TIME FOR
COMPLETING DISCOVERY
OR FILING DISPOSITIVE
MOTIONS
[Dkt. No. 111]**

I. INTRODUCTION

Defendants have filed an ex parte application to continue the recently ordered discovery cutoff dates and date for filing summary judgment motions. Plaintiff has yet to file a response. The request is denied.

The only RLUIPA claims remaining to be tried on the merits are: (1) the RLUIPA claim in Count 2 about a prison policy of denying Plaintiff kosher diets; (2) the RLUIPA claim in Count 5 about a prison policy on Plaintiff's purchasing through religious vendors; and (3) the RLUIPA claim in Count 6 about a policy of retaining Plaintiff's confiscated religious books.¹ The only § 1983 claim remaining to be tried on the merits is the claim in Count 5 brought against prison employee Meister, in his individual capacity regarding the rejection of mail on October 10, 2008.

¹ Plaintiff's own discovery requests assert that his confiscated religious books have already been returned to him, which if true, would moot this RLUIPA claim.

1 **II. DISCUSSION**

2 A scheduling order was entered on September 11, 2012. The order required the
3 parties to complete all fact discovery by March 15, 2013. Plaintiff served discovery and
4 filed a motion to compel prior to this date. Defendants sought leave to depose plaintiff
5 in prison, as they must. A settlement conference is scheduled for July 31, 2013. All
6 other pretrial motions are due by August 19, 2013.

7 Because this Court did not resolve the motion to compel or the request to depose
8 until June 28, 2013, Defendants were given four additional weeks to produce any
9 discovery compelled and depose plaintiff.

10 In addition, the time for filing summary judgment motions was advanced two
11 weeks from August 19, 2013 to August 5, 2013.

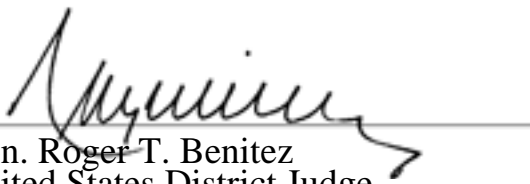
12 As a result, all discovery should be completed prior to the settlement conference
13 scheduled with the Magistrate Judge for July 31, 2013. In the event the parties do not
14 reach a settlement agreement, summary judgment motions may be filed the following
15 week.

16 Defendants seek an additional 90-120 days because the principal associate
17 assigned to the case left the law firm. Without offering specifics, they also say that
18 many of the clients and counsel have pending vacations.

19 The breadth of the case has been significantly circumscribed. The number of
20 issues narrowed. The scheduling order has been in place since last year and only
21 slightly modified. The plaintiff is entitled to have his 2010 case adjudged. The ex parte
22 motion is denied.

23 **IT IS SO ORDERED.**

24 **DATED: July 15, 2013**

25 
26 Hon. Roger T. Benitez
27 United States District Judge