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8 UNITED STATES DISTRICT COURT  
9 SOUTHERN DISTRICT OF CALIFORNIA  
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11 DEVYN WINCHELL, DAVID  
12 WINCHELL,

13 Plaintiffs,

14 v.

15 THE REGENTS OF THE UNIVERSITY  
16 OF CALIFORNIA, et al.,

17 Defendants.  
18

Case No.: 3:17-cv-00176-JAH-NLS

**ORDER GRANTING IN PART AND  
DENYING IN PART JOINT  
MOTION TO AMEND THE  
SCHEDULING ORDER**

**[ECF No. 16]**

19 Before the Court is the parties' Joint Motion to Modify or Amend the Scheduling  
20 Order Regulating Discovery and Other Pretrial Proceedings. ECF No. 16. The parties seek  
21 a 90 day extension of all dates to permit additional discovery to proceed and be completed  
22 prior to the discovery cut off, and to allow ample time for the experts to review the  
23 depositions prior to expert discovery and disclosure. *Id.* at 2.

24 Trial courts "set schedules and establish deadlines to foster the efficient treatment  
25 and resolution of cases. Those efforts will be successful only if the deadlines are taken  
26 seriously by the parties." *Wong v. Regents of the Univ. of Calif.*, 410 F.3d 1052, 1060,  
27 1062 (9th Cir. 2005). "Courts set such schedules to permit the court and the parties to  
28 deal with cases in a thorough and orderly manner, and they must be allowed to enforce

1 them, unless there are good reasons not to.” *Id.* A request to modify the scheduling order  
2 is governed by Federal Rules of Civil Procedure 16(b)(4) and “may be modified only for  
3 good cause and with the judge’s consent.” The good cause standard articulated in Rule  
4 16 focuses on the diligence of the party seeking to amend the scheduling order, and the  
5 reasons for seeking modification. *Johnson v. Mammoth Recreations, Inc.* 975 F.2d 604,  
6 609 (9th Cir. 1992) (“[T]he focus of the inquiry is upon the moving party's reasons for  
7 seeking modification. ... If that party was not diligent, the inquiry should end.”)  
8 (citing *Gestetner Corp. v. Case Equip. Co.*, 108 F.R.D. 138, 141 (D.Me.1985)). The  
9 district court may amend the scheduling order if it “cannot be met despite the diligence of  
10 the party seeking the extension.” *Id.* (citing Fed. R. Civ. P. 16 Advisory Committee  
11 Notes).

12 With these standards in mind, the Court turns to the parties’ joint motion. The  
13 parties’ submissions demonstrate that Plaintiffs’ depositions were only completed  
14 November 21, but offer that the delay was due to medical conditions and “scheduling  
15 conflicts amongst all parties.” ECF No. 16 at 2, ¶ 2. The joint motion also makes clear  
16 that Plaintiffs’ deposition requests were not sent until November 3, 2017, and offer no  
17 explanation for the delay. *Id.* at ¶ 3. The parties also represent that counsel for defendant  
18 the Regents of the University of California are engaged in trial expected to conclude  
19 December 18. *Id.* at 8. The parties submit that a 90 day continuance is required to permit  
20 time to complete depositions and permit the experts time to review all the necessary  
21 deposition transcripts.

22 Here, the parties were provided approximately eight months for fact discovery in the  
23 initial scheduling order, with an additional three months for expert discovery. *See* ECF  
24 No. 12. The medical condition of the plaintiff and the trial currently in-progress are the  
25 only good cause presented in the parties’ submission, but the plaintiff’s deposition is now  
26 complete, and the trial is expected to conclude December 18, 2017. The remaining  
27 diligence of the parties is unclear. While they represent written discovery has been

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1 ongoing, the parties only recently sought a protective order (*see* ECF Nos. 14-15) and  
2 plaintiffs only recently noticed depositions (ECF No. 16 at 2, ¶ 3).


3 The Court does not find good cause to provide a 90 day extension of all dates, or to  
4 continue the pretrial motion filing deadline or any dates thereafter, and **DENIES** this  
5 request of the joint motion. However, the Court finds it appropriate based on the parties'  
6 submission to modify the fact and expert discovery deadlines and **GRANTS IN PART** the  
7 joint motion to amend the Scheduling Order as follows:

- 8 1. The close of fact discovery (*see* ECF No. 12, ¶ 2) is continued from December  
9 15, 2017 to **February 2, 2018**.
- 10 2. The deadline for expert designation and disclosures (*see* ECF No. 12, ¶¶ 3, 4) is  
11 continued from January 26, 2018 to **February 23, 2018**.
- 12 3. The deadline for the exchange of rebuttal experts and supplemental disclosure  
13 (*see* ECF No. 12, ¶¶ 3, 5) is continued from February 26, 2018 to **March 16,**  
14 **2018**.
- 15 4. The close of expert discovery (*see* ECF No. 12, ¶ 6) is continued from March 26,  
16 2018 to **April 6, 2018**.

17 All other dates, deadlines, requirements and instructions set forth in the initial scheduling  
18 order (ECF No. 12) remain unchanged.

19 **IT IS SO ORDERED.**

20 Dated: December 1, 2017

21   
22 Hon. Nita L. Stormes  
23 United States Magistrate Judge  
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