

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEVADA

3 SCOTT CASTEEL,  
4 Plaintiff,  
5 v.  
6 ROMEO ARANAS, *et al.*,  
7 Defendants.

Case No. 3:20-CV-00381-GMN-CLB

**ORDER**

8  
9 Currently before the court are Plaintiff's motion to extend the deadline to file an  
10 amended complaint. (ECF No. 79). Defendants responded that they do not necessarily  
11 oppose an extension of time but did not know whether they have an objection to any  
12 proposed amended complaint until Plaintiff filed a motion to amend. (ECF No. 80). No  
13 reply was filed.

14 Federal Rule of Civil Procedure 16(b)(4) governs the modification of scheduling  
15 orders and discovery plans. Fed. R. Civ. P. 16(b)(4) provides that "[a] schedule may be  
16 modified only for good cause and with the judge's consent." The good cause inquiry  
17 focuses primarily on the movant's diligence. *DRK Photo v. McGraw-Hill Global Educ.*  
18 *Holdings, LLC*, 870 F.3d 978, 989 (9th Cir. 2017).

19 Local Rule 26-3 supplements Fed. R. Civ. P. 16 and provides that discovery plans  
20 and scheduling orders may be modified for good cause, provided that a motion to extend  
21 is made "no later than 21 days before the expiration of the subject deadline." See LR 26-  
22 3; see also Local Rule IA 6-1.2. The good cause standard primarily considers the  
23 diligence of the party or parties seeking the extension. *In re W. States Wholesale Nat.*  
24 *Gas Antitrust Litig.*, 715 F.3d 716, 737 (9th Cir. 2013). The Court has broad discretion in  
25 supervising the pretrial phase of litigation. See *C.F. ex rel. Farnan v. Capistrano Unified*  
26 *Sch. Dist.*, 654 F.3d 975, 984 (9th Cir. 2011).

27 Local Rule 26-4 states if a request to extend a deadline occurs "after the expiration  
28 of the subject deadline," the request will not be granted "unless the movant also

1 demonstrates that the failure to act was the result of excusable neglect.” LR 26-4.

2 In this instance, Defendants expressly indicate that they do not oppose Plaintiff's  
3 requested extension. (ECF No. 80). Although the court questions whether Plaintiff's  
4 reasons for failure to request an extension prior to the expiration of the deadline was  
5 established on excusable neglect, as a pro se litigant, the court will give him the benefit  
6 of the doubt. Moreover, pursuant to Local Rule 7-2(d), the failure of an opposing party to  
7 file points and authorities in response to any motion . . . shall constitute a consent to the  
8 granting of the motion. Therefore, Plaintiff's motion for extension of time to file a motion  
9 to amend (ECF No. 79) is **GRANTED**.

10 An opposition to plaintiff's motion to amend is due on July 20, 2021. A reply is due  
11 on July 27, 2021. Thereafter, the court will rule on the motion to amend.

12 **IT IS SO ORDERED.**

13 DATED: July 13, 2021

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16 UNITED STATES MAGISTRATE JUDGE  
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