

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

Cardenas v. Butler

No. 2:23-cv-0500 TLN AC P (E.D. Cal. July 30, 2025) · No. No. 2:23-cv-0500 TLN AC P · Decided July 30,
2025

SUMMARY

The United States District Court for the Eastern District of California partially grants plaintiff Marvin Cardenas’s motion to modify the discovery and scheduling order. The court extends the deadline to serve discovery requests to September 2, 2025, the discovery completion and discovery-dispute deadlines to November 3, 2025, and the pretrial-motion deadline to January 26, 2025, as stated in the order.

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 MARVIN CARDENAS, No. 2:23-cv-0500 TLN AC P 12 Plaintiff, 13 v.
ORDER 14 BUTLER, et al., 15 Defendants. 16 17 Plaintiff has filed a second motion for an
extension of time, requesting that the discovery 18 deadline be modified from July 25, 2025, to
October 1, 2025. ECF No. 41.

The court construes 19 this as a motion to modify the discovery and scheduling order, and will
grant it in part. 20 I. Background 21 On April 3, 2025, the court issued a discovery and scheduling
order, which set the 22 following deadlines: 23 All requests for discovery pursuant to Federal
Rules of Civil Procedure 31 24 (deposition by written question), 33 (interrogatories), 34
(production of 25 documents), or 36 (admissions) shall be served no later than May 26, 2025.

26 The parties may conduct discovery until July 25, 2025. 27 Any motions necessary to
compel discovery shall be filed by July 25, 2025. 28 All pretrial motions, exception motion to
compel discovery and motions directly 1 related to trial proceedings, shall be filed on or before
October 17, 2025. 2 ECF No. 34 at 6. 3 On June 26, 2025, plaintiff filed a motion for an extension
of time seeking a 30-day 4 extension to and including August 2, 2025 “to file my interrogatories to
the attorney generals 5 request filed on May 2, 2025.” ECF No. 39.

On July 1, 2025, the court granted plaintiff’s request 6 to the extent plaintiff sought to extend the
deadline to complete discovery. ECF No. 40 at 1. The 7 court ordered plaintiff complete discovery
by August 2, 2025, and the parties to file any motions 8 to compel discovery by August 4, 2025.
Id. at 2.

The court did not modify the deadline to serve 9 discovery requests, which was May 26, 2025, or the deadline to file dispositive motions, which is 10 October 17, 2025. Id. 11 II. Motion to Modify the Discovery and Scheduling Order 12 On July 24, 2025, before the close of discovery, plaintiff filed another motion to modify 13 the discovery and scheduling order.

ECF No. 41. He seeks to extend the discovery deadline from 14 July 25, 2025, to October 1, 2025, to allow him to propound interrogatories, requests for 15 productions, and requests for admissions, and to respond to defendants' discovery requests. ECF 16 No. 41 at 1-4. Plaintiff asserts that good cause exists for the extension because plaintiff needs to 17 "propound discovery upon seven (7) defendants" for "document intensive and factually complex" 18 medical deliberate indifference claims, id. at 2-3; he does not know how to propound discovery 19 and did not have assistance until recently, id.; and, based on what the inmate who is helping him 20 knows about discovery with the California Department of Corrections and Rehabilitation 21 ("CDCR"), he expects the need to litigate discovery production because he suspects defendants 22 will object and/or refuse to respond to his discovery requests with boilerplate objections.

Id. at 4. 23 Plaintiff claims that without an extension of time, he will be "prevented, obstructed, and 24 hindered" from satisfying the requirements for summary judgment under Federal Rule of Civil 25 Procedure 56. Id. at 5.

In support of his motion, plaintiff attaches his declaration and a 26 declaration from the inmate assisting him with his case. Id. at 6-9. 27 Defendants filed an opposition to plaintiff's motion arguing that plaintiff has not 28 established good cause to extend the discovery deadline by sixty-eight days, and because he has 1 not demonstrated excusable neglect for moving to extend the time after a scheduling order 2 deadline has passed.

ECF No. 42. Defendants also argue that plaintiff's lack of diligence weighs 3 against reopening discovery, and that the law presumes prejudice against defendants due to the 4 unreasonable delay. Id. at 2-3. 5 III. Legal Standard 6 To prevail on a request to amend a scheduling order under Rule 16(b)(4), the moving 7 party must establish "good cause" for doing so.

See *Johnson v. Mammoth Recreations, Inc.*, 975 8 F.2d 604, 608-09 (9th Cir. 1992). The good cause inquiry primarily centers on the moving 9 party's diligence. *Coleman v. Quaker Oats Co.*, 232 F.3d 1271, 1294-95 (9th Cir. 2000). Good 10 cause to extend the discovery deadline exists "if it cannot reasonably be met despite the diligence 11 of the party seeking the extension." *Johnson*, 975 F.2d at 609. "Although the existence or degree 12 of prejudice to the party opposing the modification might supply additional reasons to deny a 13 motion, the focus of the inquiry is upon the moving party's reasons for seeking modification." Id. 14 (citation omitted). "If that party was not diligent, the inquiry should end." Id. "[C]arelessness is 15 not compatible with a finding of diligence and offers no reason for a grant of relief." Id. 16 To establish good cause for amending a scheduling order to reopen discovery, courts in 17 the Ninth Circuit consider: 18 1) whether trial

is imminent; 2) whether the request is opposed; 3) whether the non-moving party would be prejudiced; 4) whether the moving party was diligent in obtaining discovery within the guidelines established by the court; 5) the foreseeability of the need for additional discovery; and 6) the likelihood further discovery will lead to relevant evidence.” 21 *City of Pomona v. SQM N. Amer.*

Corp., 866 F.3d 1060, 1066 (9th Cir. 2017) (quoting *United States ex rel. Schumer v. Hughes Aircraft Co.*, 63 F.3d 1152, 1526 (9th Cir. 1995), vacated on other grounds, 520 U.S. 939 (1997)). Although no one factor is dispositive, the primary factor courts consider in making a good cause determination is whether the moving party was diligent. 25 *Johnson*, 975 F.2d at 609.

26 It is “significant” when a party is seeking to re-open discovery rather than extend the discovery deadline. *W. Coast Theater Corp. v. City of Portland*, 897 F.2d 1519, 1524 (9th Cir. 28 1 1990). “The difference [between the two types of requests] is considerable” because “a request 2 for an extension acknowledges the importance of a deadline, [while] a retroactive request 3 suggests that the party paid no attention at all to the deadline.” *Id.* “In determining diligence, the 4 Court can inquire into (1) whether the movant was diligent in aiding the Court in creating a 5 scheduling order, (2) whether matters that were not, and could not be foreseeable at the time the 6 scheduling order was entered caused the need to amend, and (3) whether the movant was diligent 7 in attempting to amend the scheduling order once the need to amend became apparent.” *G&M 8 Farms Inc. v. E.I. du Pont*, No. 1:24-cv-0213 JLT BAM, 2024 WL 4950175, at *3, 2024 U.S. 9 Dist.

LEXIS 218875, at *9 (E.D. Cal. Dec. 3, 2024); see also *Porter v. Solano County Sheriff’s 10 Office*, No. 2:21-cv-1473 KJM JDP, 2024 WL 3361138, at *1, 2024 U.S. Dist. LEXIS 121022, at 11 *4 (E.D. Cal. July 10, 2024). 12 IV. Discussion 13 As a preliminary matter, the court notes that defendants’ opposition suggests that the court 14 should treat plaintiff’s motion as a motion to reopen discovery.

ECF No. 42 at 2. However, 15 discovery has not yet closed. See ECF No. 40. Plaintiff’s deadline to complete discovery was 16 extended from July 25, 2025, to August 2, 2025. *Id.* Moreover, even absent the prior extension, 17 the court notes that plaintiff’s motion to modify the discovery and scheduling order would not be 18 treated as a motion to reopen discovery because plaintiff filed his motion before the original date 19 for close of discovery: July 25, 2025.

20 The court also notes that despite plaintiff’s request to modify the deadline to complete 21 discovery, it appears plaintiff seeks to modify both the deadline to serve discovery, which was 22 May 26, 2025, and the deadline to complete discovery, which was July 25, 2025. Extending the 23 deadline to serve discovery requests to October 1, 2025, would extend that deadline by a little 24 over four months (128 days).

Extending the deadline to complete discovery to October 1, 2025, 25 would extend that deadline by a little over two months (68 days). If the court modifies the 26 discovery and scheduling order to extend those deadlines, the deadline to file dispositive motions, 27 which is currently set for October 17, 2025, would also need to be extended. 28 Although the court agrees with defendants that plaintiff has not established good cause 1 warranting a four-month extension of the deadline to serve discovery requests, the court finds 2 plaintiff has established good cause for a brief extension of that deadline and the deadline to 3 complete discovery.

Despite plaintiff's confusion regarding the deadlines, as discussed above, he 4 has not blatantly ignored them and has sought to meet them with some diligence. Plaintiff's 5 declaration establishes that, because he did not know how to engage in discovery, he asked 6 defendants for an extension of time to respond to their discovery requests. ECF NO. 41 at 6.

7 Before the close of discovery, he also took steps to contact another inmate, who had previously 8 helped him with filing his complaint, to help him with discovery, and to file a motion to modify 9 the discovery and scheduling order. *Id.* One month prior to the close of discovery, plaintiff also 10 filed a motion for a one-week extension to the discovery deadline, which the court granted.

See 11 ECF NO. 39. Had plaintiff sought a slightly longer extension of time at that time, the court would 12 have granted it because it was plaintiff's first requests for an extension, and he was diligent in 13 seeking the extension.

The court only granted a one-week extension based on the information 14 and the request before it at that time. 15 The court will grant plaintiff thirty days to serve his discovery requests. To allow 16 defendants sufficient time to respond to plaintiff's discovery requests and for the parties to 17 resolve any discovery disputes, the court will provide the usual sixty days to complete discovery 18 after the deadline for service has passed, and will modify the dispositive motion deadline 19 accordingly.

Absent extraordinary circumstances establishing good cause, the court will not grant 20 plaintiff further extensions to serve and/or complete discovery. 21 V. Conclusion 22 Good cause appearing, IT IS ORDERED that: 23 Plaintiff shall serve all requests for discovery pursuant to Federal Rules of Civil 24 Procedure 31 (deposition by written question), 33 (interrogatories), 34 (production 25 of documents), or 36 (admissions) no later than September 2, 2025.

26 The parties may conduct discovery until November 3, 2025. Plaintiff and 27 defendants have until November 3, 2025, to respond to each other's discovery 28 requests.] e Any motions necessary to compel discovery shall be filed by November 3, 2025. 2 e All pretrial motions, exception motion to compel discovery and motions directly 3 related to trial proceedings, shall be filed on or before January 26.

2025. 4 | DATED: July 30, 2025 ~ 5 Htttenr— Lhor—e_ ALLISON CLAIRE 6 UNITED STATES
MAGISTRATE JUDGE 7 8 9 10 1] 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28

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