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8 UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
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11 JAKE PECCIA,

12 Plaintiff,

13 v.

14 STATE OF CALIFORNIA,
15 DEPARTMENT OF CORRECTIONS
AND REHABILITATION,

16 Defendant.
17

No. 2:18-cv-03049 JAM AC

ORDER

18 This matter is before the court on plaintiff's motion for an extension of the discovery
19 deadline (ECF No. 40). Plaintiff is appearing in pro se. This matter is before the undersigned in
20 accordance with Local Rule 302(c)(21). Defendant opposes the motion. ECF No. 43. Plaintiff
21 has replied. ECF No. 46. Upon review of all arguments and briefing, plaintiff's motion is
22 GRANTED in part, but the approved extension is for 30 days rather than the requested 180.

23 **I. Relevant Background**

24 Plaintiff filed this discrimination and retaliation case against his former employer, the
25 State of California Department of Corrections and Rehabilitation ("CDCR") on November 26,
26 2018. ECF No. 1. Plaintiff was initially represented by counsel. Counsel was permitted to
27 withdraw, and as of February 10, 2020, this matter has been referred to the undersigned as a pro
28 se case. ECF No. 22. On February 24, 2020, a pretrial schedule was issued setting an expert

1 disclosure deadline of 2/5/2021, a discovery deadline of 4/26/2021 and a trial date of 10/4/2021.
2 ECF No. 26. On February 2, 2021 plaintiff moved for an additional 45 days to complete expert
3 disclosures. ECF No. 36. That motion was unopposed and was granted. ECF No. 39. On March
4 18, 2021, plaintiff brought the motion at bar, seeking an additional 180 days to complete
5 discovery. ECF No. 40.

6 II. Discussion

7 To prevail on a request to amend a scheduling order under Rule 16(b)(4), the moving
8 party must establish “good cause” for doing so. See Johnson v. Mammoth Recreations, Inc., 975
9 F.2d 604, 608-09 (9th Cir. 1992). The good cause inquiry primarily centers on the moving
10 party’s diligence. Coleman v. Quaker Oats Co., 232 F.3d 1271, 1294-95 (9th Cir. 2000). Good
11 cause to extend the discovery deadline exists “if it cannot reasonably be met despite the diligence
12 of the party seeking the extension.” Johnson, 975 F.2d at 609.

13 Here, plaintiff argues that he has a learning disability, that the COVID-19 pandemic has
14 caused discovery delays, and that he is still working full time and his hours make it difficult for
15 him to stay within the timeframe for discovery set by the court. ECF No. 40 at 3-6. Defendant
16 counters that plaintiff has not been diligent and there is no good cause for an extension of time.
17 ECF No. 43 at 2-5. Defendant argues plaintiff has not sent any discovery since July 17, 2019. Id.
18 at 3. Defendant asserts that despite being awarded an extension of time to file expert witness
19 disclosures, plaintiff failed to make a timely disclosure. Id. Defendant argues plaintiff fails to
20 explain what steps he has taken over the past 17 months to diligently attempt to complete
21 discovery within the established deadlines. Id. at 4. Defendant notes that the requested extension
22 of time would necessitate an entirely new schedule for all remaining deadlines in this case. Id. at
23 5. Plaintiff responds that the various COVID-19 related shutdowns have made discovery
24 difficult, he is not an attorney, and his schedule and learning disabilities have made things
25 difficult. ECF No. 46.

26 The court is sympathetic to the fact that the most recent schedule in this case was entered
27 just before COVID-19 caused delays and shutdowns that could have impacted discovery.
28 However, the court is also aware that plaintiff has had over a year to conduct discovery and with

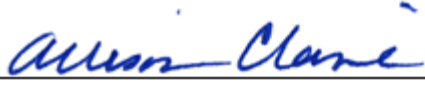
1 reasonable diligence, should have been able to serve defendants with additional discovery
2 between July 2019 and the April 2021 deadline. The court is also mindful of defendant's
3 reasonable concern regarding delays to other case deadlines. The court therefore GRANTS
4 plaintiff's motion only in part; the discovery deadline is extended by 30 days, to May 25, 2021.
5 Motions to compel must be heard not later than April 30, 2021. No other deadlines are altered.

6 **III. Conclusion**

7 For the reasons set forth above, plaintiff's motion for an extension of time (ECF No. 40) is
8 GRANTED insofar as the discovery deadline is extended by 30 days, to May 25, 2021. Motions
9 to compel must be heard not later than April 30, 2021. No other deadlines are altered.

10 IT IS SO ORDERED.

11 DATED: April 6, 2021

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13 ALLISON CLAIRE
14 UNITED STATES MAGISTRATE JUDGE
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