

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF CALIFORNIA
3

4 DARRELL WAYNE KING,

5 Plaintiff,

6 vs.

7 JOHN D. CHOKATOS, et al.,

8 Defendants.
9

1:12-cv-01936-LJO-EPG-PC

SCHEDULING ORDER FOLLOWING
STATUS CONFERENCE HELD ON
JULY 26, 2016

ORDER GRANTING IN PART
DEFENDANT STRINGER'S MOTION TO
MODIFY SCHEDULING ORDER
(ECF No. 68.)

ORDER FOR DISCOVERY TO PROCEED
FOR CLAIMS AGAINST DEFENDANT
CHOKATOS, LIMITED TO CLAIMS
ARISING FROM ALLEGATIONS
BEGINNING ON OCTOBER 31, 2011

New Discovery Cut-off Deadline: October 19, 2016

New Dispositive Motions Deadline: November 18, 2016

Telephonic Discovery Status Conference:

October 19, 2016 at 2:00 p.m.

Courtroom 10 (EPG)

Notice of Discovery Disputes Due:

October 5, 2016

Settlement Conference:

November 2, 2016 at 10:00 a.m.

Courtroom 6 (JLT)

Confidential Settlement Conference

Statements Due: October 26, 2016

TTCH:

June 22, 2017 at 8:30 a.m.

Courtroom 4 (LJO)

Jury Trial:

August 22, 2017 at 8:30 a.m.

Courtroom 4 (LJO)

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25 **I. BACKGROUND**

26 Darrell Wayne King ("Plaintiff") is a state prisoner proceeding *pro se* and *in forma*
27 *pauperis* with this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed this case on
28 November 29, 2012. (ECF No. 1.) This case now proceeds on the First Amended Complaint

1 filed on September 2, 2014, with Plaintiff's Eighth Amendment claims against defendant Dr.
2 John D. Chokatos,¹ for failure to provide adequate medical care, and for supplemental state law
3 claims. (ECF No. 33.)

4 Pursuant to the Court's scheduling order issued on November 16, 2015, the deadline for
5 completion of discovery expired on July 16, 2016, and the deadline for the parties to file
6 pretrial dispositive motions shall expire on September 26, 2016. (ECF No. 41.)

7 **II. STATUS CONFERENCE**

8 On July 26, 2016 at 10:00 a.m., a telephonic status conference was held before
9 Magistrate Judge Erica P. Grosjean. Plaintiff appeared telephonically on his own behalf;
10 California Deputy Attorney General Jason A. Braxton appeared telephonically on behalf of
11 defendant Stringer; and Kristina D. Gruenberg of Burke, Williams & Sorenson appeared
12 telephonically on behalf of defendant Chokatos. The parties discussed discovery issues and a
13 litigation schedule for this case.

14 **A. Defendant Stringer's Motion to Modify Scheduling Order**

15 On July 13, 2016, defendant Stringer filed a motion to extend the discovery, dispositive
16 motions, and expert witness disclosure deadlines, pending the Court's ruling on Defendants'
17 motion for summary judgment. (ECF No. 68.) At the hearing, the Court granted the motion to
18 extend discovery and the dispositive motions deadline. The deadline for completion of
19 discovery was extended from July 16, 2016 to October 19, 2016, and the deadline for the
20 parties to file pretrial dispositive motions was extended from September 26, 2016 to November
21 18, 2016.

22 The Court stayed the case against defendant Stringer, and the parties were permitted to
23 only conduct discovery concerning the claims against defendant Chokatos arising from
24 allegations beginning on October 31, 2011, pending a final ruling on the motion for summary
25 judgment.

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27
28 ¹ On August 5, 2016, the Court issued an order granting defendants' motion for summary judgment based on failure to exhaust and dismissing defendant Michelle I. Stringer from this action. (ECF No. 72.) Thus, defendant Chokatos is now the sole defendant in this action.

1 The Court denied the motion to extend the deadline for disclosure of expert witnesses.
2 Plaintiff stated that he believes experts are needed to expose problems with defendant
3 Chokatos' procedures, and he requested appointment of an expert by the Court. The Court
4 advised Plaintiff that exceptional reasons must be shown before for such appointment will be
5 made. Plaintiff is permitted to file a motion for appointment of an expert if he wishes.

6 **B. Discovery Issues**

7 The parties discussed pending discovery issues. To date, Defendants have taken
8 Plaintiff's deposition and obtained Plaintiff's medical records. Plaintiff has served discovery
9 requests but has not received responses to all of his requests. Plaintiff stated that he requested
10 medical records, but has not been provided with any records from 2011. Plaintiff also
11 requested copies of policies and procedures. Defense counsel Gruenberg stated that she has
12 medical records from 2011 in her possession.

13 The Court ordered Defendant Chokatos to provide Plaintiff with all of Plaintiff's 2011-
14 2012 medical records in Greunberg's possession, no later than **August 5, 2016**. The Court also
15 ordered Defendant Chokatos to respond to Plaintiff's pending discovery requests by **August**
16 **23, 2016**. Limited discovery requests regarding claims against defendant Chokatos, as
17 discussed above, shall be served by **August 9, 2016**, with forty-five days for service of
18 responses.

19 **C. Further Scheduling**

20 The Court set out dates and deadlines in this case, as follows:

21 **1. New Deadlines for Discovery and Dispositive Motions**

22 The deadline for completion of discovery was extended from July 16, 2016 to **October**
23 **19, 2016**, and the deadline for the parties to file pretrial dispositive motions was extended from
24 September 26, 2016 to **November 18, 2016**.

25 **2. Telephonic Discovery Status Conference**

26 A Telephonic Discovery Status Conference is scheduled for **October 19, 2016 at 2:00**
27 **p.m.** before Magistrate Judge Erica P. Grosjean in Courtroom 10. The parties shall file written
28 notice to the Court of any discovery disputes no later than **October 5, 2016**, with responses due

1 by **October 12, 2016**. To join the Telephonic Discovery Status Hearing, the parties shall each
2 call the toll-free telephone number **(888) 251-2909** and use Access Code **1024453**, at **2:00 p.m.**
3 **on October 19, 2016**.

4 **3. Settlement Conference**

5 A settlement conference is scheduled for **November 2, 2016 at 10:00 a.m.** before
6 Magistrate Judge Jennifer L. Thurston, at the United States Courthouse, 2500 Tulare Street,
7 Fresno, California, Seventh Floor, Courtroom 6. The parties' confidential settlement
8 conference statements shall be due one week before the settlement conference, no later than
9 **October 26, 2016**.

10 Plaintiff shall appear in person the settlement conference. The Court shall issue a writ
11 of *habeas corpus ad testificandum* to transport Plaintiff to Court for the settlement conference.

12 Defense counsel shall appear at the settlement conference in person with full authority
13 to negotiate and settle the case on any terms. Government entities may appear through litigation
14 counsel only, but must have immediate access to the individual with settlement authority. The
15 failure of any counsel, party or authorized person subject to this order to appear in person may
16 result in the imposition of sanctions.

17 Each party shall provide a Confidential Settlement Conference Statement to:

18 Chambers of Magistrate Judge Jennifer P. Thurston
19 United States District Court
20 2500 Tulare Street, Room 1501
21 Fresno, California 93721

22 so they are received no later than **October 26, 2016**, and file a **Notice of Submission** of the
23 Confidential Settlement Conference Statement with the Clerk of the Court (See L.R. 270(d)).
24 Settlement statements **should not be filed** with the Clerk of the Court nor served on any other
25 party. Settlement statements shall be clearly marked "CONFIDENTIAL" with the date and
26 time of the settlement conference indicated prominently thereon. The confidential settlement
27 statement shall be **no longer than five pages** in length, typed or neatly printed, and include the
28 following:

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- 1 (1) A brief statement of the claims and defenses, i.e., statutory or other grounds
2 upon which the claims are founded; a forthright evaluation of the parties
3 likelihood of prevailing on the claims and defenses; and a description of the
4 major issues in dispute;
- 5 (2) An evaluation of damages expected at trial if Plaintiff prevails on his claims;
- 6 (3) An estimate of the cost and time to be expended for further discovery, pretrial,
7 and trial;
- 8 (4) The relief sought;
- 9 (5) The party's position on settlement, including present demands and offers and a
10 history of past settlement discussions, offers, and demands; and
- 11 (6) A brief statement of each party's expectations and goals for the settlement
12 conference.

13 **4. TTCH and Trial**

14 A Telephonic Trial Confirmation Hearing (TTCH) is scheduled for **June 22, 2017 at**
15 **8:30 a.m.**, and Jury Trial for this case is scheduled to commence on **August 22, 2017 at 8:30**
16 **a.m.**, before the Honorable Lawrence J. O'Neill in Courtroom 4. The parties had no objections
17 to these dates.

18 **III. CONCLUSION**

19 Based on the foregoing, IT IS HEREBY ORDERED that:

- 20 1. Defendant Stringer's motion to modify the scheduling order, filed on July 13,
21 2016, is GRANTED in part;
- 22 2. The deadline for completion of discovery, including the filing of motions to
23 compel, is extended from July 16, 2016 to **October 19, 2016**;
- 24 4. The deadline for filing pretrial dispositive motions is extended from September
25 26, 2016 to **November 18, 2016**;
- 26 5. The motion for extension of the deadline for expert witness disclosure is
27 DENIED;
- 28 6. Discovery shall proceed for claims against defendant Chokatos, limited to those

