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IN THE UNITED STATES DISTRICT COURT

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FOR THE DISTRICT OF ARIZONA

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Hai Van Le,)

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Plaintiff,)

No. CV 11-744-PHX-RCB(ECV)

14

vs.)

O R D E R

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Arizona Department of)
Corrections, *et al.*)

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Defendants.)

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Plaintiff *pro se*, Hai Van Le, brought this civil rights
action pursuant to 42 U.S.C. § 1983 against several employees
of the Arizona Department of Corrections (ADC). (Doc. 1.)
This court granted defendants' summary judgment motion as to
defendant John Osborn, but denied summary judgment as to
defendants Ryan, Haley, Matson, and Smith. Ord. (Doc. 64) at
11. The only claim that remains in this lawsuit is for
failure to protect as against the four defendants just
listed. Id.

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Because this action is now ready for trial, the court
hereby **ORDERS** that plaintiff *pro se* and the attorney or

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1 attorneys who will be responsible for the trial of this
2 lawsuit prepare a proposed Joint Final Pretrial Order and
3 lodge it with the Clerk of the Court no later than four (4)
4 weeks from the filing date of this order.

5 Although it is plaintiff *pro se*'s responsibility to
6 ensure that the proposed Joint Final Pretrial Order is
7 properly prepared and timely lodged, defendants shall
8 cooperate with plaintiff *pro se* to ensure that such Order is
9 properly prepared and timely lodged. That proposed Joint
10 Final Proposed Pretrial Order shall be signed by plaintiff
11 *pro se* and defense counsel. Plaintiff *pro se* may authorize
12 defense counsel to sign on his behalf.

13 The content of the proposed Joint Final Pretrial Order
14 shall include, but is not limited to, that prescribed in the
15 form of the proposed Joint Final Pretrial Order attached
16 hereto.

17 Pursuant to Fed.R.Civ.P. 16(d) and 37(c), the court will
18 not allow the parties to modify the Joint Final Pretrial
19 Order or introduce at trial any exhibits, witnesses, or other
20 information or to make any objections to exhibits that were
21 not previously specified and/or disclosed as directed by the
22 Court in the Joint Final Pretrial Order, except to prevent
23 manifest injustice. Galdamez v. Potter, 415 F.3d 1015, 1020
24 (9th Cir. 2005).

25 After the lodging of the signed proposed Joint Final
26 Pretrial Order, at a date to be set by the court, the parties
27 shall participate telephonically in a Pretrial Conference to
28 discuss that Proposed Order. Following that Pretrial

1 Conference, the court will issue the Final Pretrial Order and
2 set a trial date for this action.


3 **IT IS ORDERED** that:

4 (1) the reference to the Magistrate Judge is withdrawn;
5 and

6 (2) the parties shall lodge a Proposed Joint Final
7 Pretrial Order in accordance herewith by no later than four
8 (4) weeks from the filing date of this order.

9 DATED this 10th day of April, 2013.

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Robert C. Broomfield
Senior United States District Judge

Copies to counsel of record and plaintiff *pro se* Hai Van Le

1 **FINAL PRETRIAL ORDER**

2 This Final Pretrial Order supersedes the pleadings and
3 shall govern the trial and further proceedings in this case.

4 A. STATEMENT OF JURISDICTION. Cite the statute(s) which
5 gives this Court jurisdiction:

6 (example - Jurisdiction in this case is based on
7 diversity of citizenship under Title 28 U.S.C. § 1332.)

8 B. NATURE OF ACTION. Provide a concise statement of the
9 type of case, the cause of the action, and the relief sought:

10 (example - This is a products liability case wherein the
11 plaintiff seeks damages for personal injuries sustained
12 when he fell from the driver's seat of the forklift. The
13 plaintiff contends that the forklift was defectively
designed and manufactured by the defendant and the
defects were a producing cause of his injuries and
damages.)

14 C. CONTENTIONS OF THE PARTIES. With respect to each count
15 of the complaint, counterclaim or cross-claim, and to any
16 defense, affirmative defense, or the rebuttal of a presumption
17 where the burden of proof has shifted, the party having the
18 burden of proof shall list the elements or standards that must
19 be proved in order for the party to prevail on that claim or
20 defense:

21 (example - In order to prevail on this products liability
22 case, the plaintiff, must prove the following elements
. . .)

23 (example - In order to defeat this products liability
24 claim based on the statute of limitations or repose, the
defendant must prove the following elements . . .)

25 D. STIPULATION AND UNCONTESTED FACTS

26 E. CONTESTED ISSUES OF FACT AND LAW (See and refer to
27 subpart C above)

28 F. LIST OF WITNESSES. Include or separately attach a

1 list(s) of witnesses, identifying each as either plaintiff's
2 or defendants' witnesses and indicating whether the witness is
3 a fact or expert witness.

4 G. LIST OF EXHIBITS. Include or separately attach a
5 list(s) of numbered exhibits, identifying each as either
6 plaintiff's or defendants', with a description of each
7 containing sufficient information to identify the exhibit,
8 indicating whether there is an objection to its admission and,
9 if so, the nature of the objection(s) anticipated. The actual
10 exhibits must be later marked according to instructions which
11 will be provided at the final pre-trial conference.

12 H. LIST OF DEPOSITIONS. Include or separately attach
13 those portions of depositions that will be read at trial by
14 each party listed by page and line number, whether there is an
15 objection to each passage and, if so, the nature of the
16 objection.

17 I. MOTIONS IN LIMINE. Motions in Limine are intended to
18 encompass only significant evidentiary issues and are
19 generally discouraged. Such motions, if allowed, shall be
20 filed by _____, 2013. Any responses shall be
21 filed by _____, 2013. No replies may be filed
22 without permission of the court. Motions in Limine are deemed
23 submitted without argument.

24 J. LIST OF ANY PENDING UNRULED UPON MOTIONS

25 K. PROBABLE LENGTH OF TRIAL

26 For a Bench Trial

27 L. PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW shall
28 be simultaneously filed by _____, 2013.

1 For a Jury Trial

2 M. INSTRUCTIONS. The parties shall seek to stipulate to
3 jury instructions and any stipulated jury instructions shall
4 be filed by _____, 2013. Instructions which are
5 not agreed upon shall include citation to authority which
6 shall not exceed one page per instruction and shall be filed
7 by _____, 2013. Objections to any non-agreed
8 upon instruction shall include citation to authority which
9 shall not exceed one page per instruction and may be filed by
10 _____, 2013.

11 N. VOIR DIRE QUESTIONS. Any proposed voir dire questions
12 shall be filed by _____, 2013.

13 O. CERTIFICATIONS. Plaintiff, *pro se*, and defense counsel
14 in this action do hereby certify and acknowledge the
15 following:

16 1. All discovery has been completed.

17 2. The identity of each witness has been disclosed to
18 plaintiff, *pro se*, and defense counsel.

19 3. Each exhibit listed herein (a) is in existence; and
20 (b) has been disclosed and shown to plaintiff, *pro se*, and
21 defense counsel.

22
23 APPROVED AS TO FORM AND CONTENT:
24

25 _____
26 Plaintiff, *pro se*

Attorney for Defendants

27
28 THIS JOINT PRETRIAL ORDER IS HEREBY APPROVED AND TRIAL IS

1 SET FOR _____, 2013 AT 9:00 A.M., COURTROOM
2 606, Sixth Floor, Sandra Day O'Connor United States
3 Courthouse, 401 West Washington Street, Phoenix, Arizona;
4 COUNSEL SHALL APPEAR AT 8:30 A.M.

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