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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 James Ellsworth,

10 Plaintiff,

11 v.

12 Prison Health Services Incorporated, et al.,

13 Defendants.
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No. CV-11-08070-PCT-RCB

ORDER

15 The jury trial in this case is scheduled for April 29, 2014, with the location
16 (Prescott or Phoenix) yet to be determined. Doc. 169. At the January 13, 2014, status
17 conference the court ordered, among other things, that any additional motions *in limine*¹
18 were to be filed by no later than February 28, 2014. Doc. 167. The defendants timely
19 filed two motions *in limine*. The plaintiff filed six motions which, with one exception,
20 are untimely.

21 **I. Plaintiff's Motions**

22 On February 28, 2014, the plaintiff did timely file his motion for a writ of habeas
23 corpus ad testificandum (Doc. 171). The court **grants** that motion and in due course will
24 order the issuance of such a writ to secure the plaintiff's appearance at trial.

25 Nearly two weeks later, on March 13, 2014, the plaintiff filed two other motions:
26 (1) to preclude the introduction of evidence describing the nature of his felony conviction

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28 ¹ The court assumes familiarity with its prior order addressing a host of pre-trial motions
by the plaintiff, including a motion *in limine* pertaining to his criminal history. See Ellsworth v. Prison
Health Services, Inc., 2013 WL 6587876 (D.Ariz. Dec. 12, 2013); Doc. 164 (same).

1 (Doc. 178); and (2) to seal trial transcripts in the underlying criminal matter and to seal
2 portions of his medical records (Doc. 179). The court **denies** these motions as untimely.

3 On April 3, 2014, more than a month after the passage of the deadline for filing
4 motions *in limine*, the plaintiff filed the following three motions: (1) “Request for
5 Advance of Witness Fees For Material Witnesses/Motion for Court Order for Repayment
6 of Witness Fees (Doc. 183); “Motion for District Court Directive To United States
7 Marshal’s Service for Service Of Subpoenas” (Doc. 184); and (3) “Motion To Change
8 Trial to Phoenix, Arizona” (Doc. 185). The court **denies** the first two listed motions as
9 untimely (Docs. 183 and 184).

10 As to the third motion, the defendants having advised the court that they have no
11 opposition thereto (Doc. 167), the court **grants** the plaintiff’s motion to have trial
12 conducted in Phoenix, Arizona (Doc. 185)

13 **II. Defendants’ Motions in Limine**

14 In due course, the court will issue a separate order resolving the defendants’
15 pending motions *in limine*: (1) to preclude the plaintiff from calling certain witnesses
16 (Docs. 172); and (2) to preclude the plaintiff from providing expert opinion testimony
17 (Doc. 173).

18 As set forth above, the court **HEREBY ORDERS** that:

19 (1) Plaintiff’s Motion for Writ of Habeas ad testificandum (Doc. 171) is

20 **GRANTED;**

21 (2) Plaintiff’s Motion to Preclude (Doc. 178) is **DENIED;**

22 (3) Plaintiff’s Motion to Seal Transcripts and Medical Record Exhibits of Motion
23 to Preclude (Doc. 179) is **DENIED;**

24 (4) Plaintiff’s Motion for Advance of Witness Fees for Material
25 Witnesses/Motion for Court Order for Repayment of Witness Fees (Doc. 183) is
26 **DENIED;**


27 (5) Plaintiff’s Motion for District Court Directive to United States Marshal’s
28 Service for Service of Subpoenas (Doc. 184) is **DENIED;** and

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(6) Plaintiff's Motion to Change Trial to Phoenix, Arizona (Doc. 185) is **GRANTED**. The trial of this matter shall commence on the **29th day of April, 2014, at 9:00 a.m.** in Courtroom 505, Sandra Day O'Connor United States Courthouse, 401 West Washington Street, Phoenix, Arizona 85003. Plaintiff *pro se* and defense counsel shall appear at **8:30 a.m.**; and

(7) The parties **shall not** file any additional motions *in limine* as the time to do so has passed in accordance with this court's January 13, 2014 order.

DATED this 16th day of April, 2014.



JOHN A. JARVEY
UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF IOWA