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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ROBERT GLEN MISTRIEL,

Plaintiff,

CASE NO. 1:03-cv-06922-AWI-SKO

DISCOVERY ORDER
SCHEDULING ORDER

v.

Unenumerated Rule 12(b) Motion Deadline – **November 4, 2011**

KERN COUNTY, et al.,

Defendants.

Deadline to Amend Pleadings – **March 9, 2012**

Discovery Cut-Off date – **May 11, 2012**

Dispositive Motion Deadline – **July 20, 2012**

Defendant City of Bakersfield has answered the third-amended complaint (“TAC”) filed on October 12, 2010. Pursuant to Federal Rules of Civil Procedure 1, 16, and 26-36, discovery shall proceed as follows:

1. Discovery requests shall be served by the parties pursuant to Federal Rules of Civil Procedure 5 and Local Rule 135, and shall only be filed when required by Local Rules 250.1, 250.2 and 250.3;

2. Responses to written discovery requests shall be due forty-five (45) days after the request is first served;

1 3. To ensure that the responding party has forty-five (45) days after the request is first
2 served to respond, discovery requests must be served at least forty-five (45) days before the
3 discovery deadline;

4 4. Pursuant to Federal Rule of Civil Procedure 30(a), Defendants may depose Plaintiff
5 and any other witness confined in a prison upon condition that, at least fourteen (14) days before
6 such a deposition, Defendants serve all parties with the notice required by Federal Rule of Civil
7 Procedure 30(b)(1); and

8 5. If disputes arise about the parties' obligations to respond to requests for discovery,
9 the parties shall comply with all pertinent rules including Rules 5, 7, 11, 26, and 37 of the Federal
10 Rules of Civil Procedure and Rules 110, 130, 131, 133, 135, 136, 142, and 230(1) of the Local Rules
11 of Practice for the United States District Court, Eastern District of California. Unless otherwise
12 ordered, Local Rule 251 shall not apply, and the requirement set forth in Federal Rules of Civil
13 Procedure 26 and 37 that a party seeking relief from the court certify that he or she has in good faith
14 conferred or attempted to confer with the other party or person in an effort to resolve the dispute
15 prior to seeking court action shall not apply. Voluntary compliance with this provision of Rules 26
16 and 37 is encouraged, however. A discovery motion that does not comply with all applicable rules
17 will be stricken and may result in imposition of sanctions.

18 **Further, the parties are advised of the following deadlines:**

19 6. The deadline for filing motions to dismiss for failure to exhaust the administrative
20 remedies pursuant to the unenumerated portion of Federal Rule of Civil Procedure
21 12(b) shall be **November 4, 2011**;

22 7. The deadline to file a motion to amend the pleadings shall be **March 9, 2012**;

23 8. The deadline for the completion of all discovery, including filing motions to compel,
24 shall be **May 11, 2012**;

25 9. The deadline for filing pre-trial dispositive motions shall be on **July 20, 2012**;¹
26

27 ¹ The pre-trial dispositive motion deadline does not apply to the filing of unenumerated Rule 12(b) motions
28 to dismiss for failure to exhaust. Unenumerated Rule 12(b) motions for failure to exhaust must be filed on or before
the deadline separately set forth in this order.

- 1 **10. A request for an extension of a deadline set in this order must be filed on or**
2 **before the expiration of the deadline in question;**
- 3 **11. An extension of time will only be granted on a showing of good cause; and**
- 4 **12. The parties are informed that this schedule is subject to modification by the**
5 **Court in the event additional parties join the litigation.**

6

7 IT IS SO ORDERED.

8 **Dated: September 5, 2011**

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE