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**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

JOHN E. JAMES III,

Case No.: 1:04-cv-05878 LJO DLB PC

Plaintiff,

**ORDER SETTING TRIAL DATE**

v.

**Motions in Limine Hearing and Jury Trial:  
September 28, 2009, Courtroom 4, before United  
States District Judge Lawrence J. O’Neill.**

BEER, et al.,

Defendants.

\_\_\_\_\_ /

Plaintiff John E. James III (“plaintiff”) is proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. This action is proceeding on plaintiff’s amended complaint, filed January 4, 2005, against defendants Beer, Broomfield, Edmond, German, Lemos, Maldonado, Martinez, Means, Rabe, Rocha, Stockman, Torres, Trotter, Valtierra, Vogel and Yamamoto (“defendants”). A settlement conference was held in this matter on May 21, 2009, before the Honorable Judge Vadas and a settlement was not reached.

Accordingly, this matter is set for jury trial on **September 28, 2009 at 8:30 a.m.** before the Honorable Judge O’Neill in Courtroom 4.

Plaintiff has already filed motions in limine. Any further motions in limine must be served on the other party, and filed with the Court, by **September 8, 2009**. Any motion in limine must clearly identify the nature of the evidence that the moving party seeks to prohibit the other side from offering at trial. Any opposition to a motion in limine must be served on the other party, and filed with the Court, by **September 21, 2009**. The Court will hear and decide such motions on the morning of trial.

The parties are relieved of their obligation under Local Rule 16-285 to file trial briefs. The Court will prepare the verdict form, which the parties will have the opportunity to review on the morning of trial. If the parties wish to submit a proposed verdict form, they must do so on or before

1 **September 21, 2009.**

2 Defendants shall file proposed jury instructions as provided in Local Rule 51-163 on or  
3 before **September 21, 2009**. If plaintiff wishes to file proposed jury instructions, he must do so on  
4 or before **September 21, 2009**.

5 In selecting proposed instructions, the parties shall use Ninth Circuit Model Civil Jury  
6 Instructions to the extent possible. All jury instructions must be submitted in duplicate: One set will  
7 indicate which party proposes the instruction, with each instruction numbered or lettered, and  
8 containing citation of supporting authority, and the customary legend, *i.e.*, "Given, Given as  
9 Modified, or Refused," showing the Court's action, with regard to each instruction. One set will be  
10 an exact duplicate of the first, except it will not contain any identification of the party offering the  
11 instruction or supporting authority or the customary legend of the Court's disposition. Defendants  
12 shall provide the Court with a copy of their proposed jury instructions via e-mail at:  
13 ljoorders@caed.uscourts.gov.

14 Proposed voir dire questions, if any, shall be filed on or before **September 21, 2009**. Local  
15 Rule 47-162.

16 The parties shall serve and file a non-argumentative, brief statement of the case which is  
17 suitable for reading to the jury at the outset of jury selection on or before **September 21, 2009**. The  
18 Court will consider the parties' statements but may draft its own statement. The parties will be  
19 provided with the opportunity to review the Court's prepared statement on the morning of trial.

20 The original and two copies of all trial exhibits along with exhibit lists shall be submitted to  
21 Courtroom Deputy Irma Lira no later than **September 21, 2009**. It appears that Plaintiff has already  
22 submitted two copies of his trial exhibits, and is not required to submit additional copies. All of  
23 defendants' exhibits shall be pre-marked with the prefix "DX" and numbered sequentially beginning  
24 with 200 (e.g., DX-200, DX 201, etc.).

25 IT IS SO ORDERED.

26 **Dated: July 9, 2009**

27 /s/ Dennis L. Beck  
28 UNITED STATES MAGISTRATE JUDGE