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5 **UNITED STATES DISTRICT COURT**
67 EASTERN DISTRICT OF CALIFORNIA
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9 CARLOS QUIROZ,

10 v. Plaintiff,

CASE NO. 1:06-CV-01426-OWW-DLB PC

ORDER DISREGARDING MOTION FOR
SETTLEMENT CONFERENCE (DOC. 52)11 CALIFORNIA DEPARTMENT OF
12 CORRECTIONS AND REHABILITATION,
et al.,

13 Defendants.

ORDER GRANTING MOTION FOR
EXTENSION OF TIME SUBMIT MONEY
ORDERS (DOC. 54)

14 JANUARY 18, 2011 DEADLINE

15 ORDER DENYING MOTION FOR
APPOINTMENT OF MEDICAL EXPERT
(DOC. 55)16 Plaintiff Carlos Quiroz (“Plaintiff”) is a prisoner in the custody of the California
17 Department of Corrections and Rehabilitation (“CDCR”). Plaintiff is proceeding pro se and in
18 forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. This action is proceeding
19 on Plaintiff’s complaint against Defendants Attygalla and Shen for violation of the Eighth
20 Amendment.21 Pending before the Court are: 1) Plaintiff’s motion for a settlement conference, filed
22 November 12, 2010; 2) Plaintiff’s motion for extension of time to submit money orders for travel
23 expenses for unincarcerated witnesses, filed December 6, 2010; and 3) Plaintiff’s motion for
24 appointment of medical expert, filed December 6, 2010. Docs. 52, 54, 55. Defendants filed their
25 responses to the motions on November 12, 2010 and December 8, 2010. Docs. 53, 56.26 **I. Motion For Settlement Conference**27 Plaintiff moves for a settlement conference in this matter. Defendants responded that
28 they would not settle for any monetary amount because Plaintiff would be unable to prove his

1 claims. As Defendants have indicated an unwillingness to settle, it is HEREBY ORDERED that
2 Plaintiff's motion for settlement conference, filed November 12, 2010, is DISREGARDED.

3 **II. Motion For Extension Of Time To Submit Money Orders**

4 Plaintiff requests up to and including January 18, 2011 to submit money orders required
5 for the attendance of unincarcerated witnesses at trial. Plaintiff contends that he contacted family
6 members in Peru, who will send him the money by that time.

7 Defendants contend that the Court should deny Plaintiff's motion. Defendants contend
8 that Plaintiff has not shown an ability to secure these funds. Defendants further contend that
9 requiring Defendant Shen, who currently resides in Taiwan, to travel to Fresno for trial would be
10 a miscarriage of justice in this instance.

11 Defendants' arguments are unpersuasive. Plaintiff's list of unincarcerated witnesses
12 includes three doctors, all of whom presumably reside in California. Defendant Shen is not one
13 of these witnesses. Thus, Defendants' argument is moot.

14 Accordingly, Plaintiff's motion for extension of time to submit money orders, filed
15 December 6, 2010, is GRANTED. Plaintiff is granted up to and including January 18, 2011 in
16 which to submit his money orders to the Court.

17 **III. Motion For Appointment Of Medical Expert**

18 Plaintiff requests that the Court appoint a medical expert in this action. Plaintiff's request
19 for expert witnesses concerning prison management is denied. Federal Rule of Evidence 706
20 allows the Court to appoint expert witnesses on its own motion or on motion by a party. Fed. R.
21 Evid. 706; *Walker v. American Home Shield Long Term Disability Plan*, 180 F.3d 1065, 1071
22 (9th Cir. 1999). Pursuant to Federal Rule of Evidence 702, “[i]f scientific, technical, or other
23 specialized knowledge will assist the trier of fact to understand the evidence or to determine a
24 fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or
25 education, may testify thereto in the form of an opinion or otherwise.”

26 The function of an expert witness is to assist the trier of fact in understanding the
27 evidence. The Court does not find that an expert witness would be necessary in this matter.
28 “The decision to appoint an expert under [Fed. R. Evid. 706(a)] rests solely in the Court's

1 discretion and is to be informed by such factors as the complexity of the matters to be determined
2 and the fact-finders need for a neutral, expert view.” *Mavity v. Fraas*, 456 F. Supp. 2d 29, 34 n.4
3 (D.D.C. 2006) (internal quotations and citation omitted). The Court does not find this litigation
4 to be so particularly complex as to require appointment of an expert. Accordingly, Plaintiff’s
5 motion for appointment of expert, filed December 6, 2010, is DENIED.

6 IT IS SO ORDERED.

7 Dated: December 10, 2010

8 /s/ Dennis L. Beck
9 UNITED STATES MAGISTRATE JUDGE

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