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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

JOSEPH R. PULLIAM,
 Plaintiff,

 v.

M. LOZANO, et al.,
 Defendants.

Case No.: 1:07-cv-0964-MJS (PC)

ORDER GRANTING DEFENDANTS’ MOTION
TO SUBSTITUTE EXPERT WITNESS FOR
TRIAL

(ECF No. 125)

Plaintiff Joseph R. Pulliam (“Plaintiff”), a California state prisoner proceeding pro se, filed this civil rights action pursuant to 42 U.S.C. § 1983 on July 5, 2007. This matter is set for a jury trial on December 10, 2013, before the Honorable Michael J. Seng.

This action proceeds on Plaintiff’s amended complaint, filed February 2, 2008, against Defendants Mason and Lozano for use of excessive physical force in violation of the Eighth Amendment of the United States Constitution. Plaintiff’s claim arises from an incident which occurred on March 21, 2006, at Kern Valley State Prison in Delano, California.

Defendants have filed a motion requesting permission to substitute at trial one expert witness for another. (ECF No. 125.) Defendants originally identified Dr. S. Lopez as their medical expert but have since been informed that she is not available on the day of trial. (Id. at 2.) This expert was to testify based on her review of Plaintiff’s medical records. (Id.)

1 Defendants wish to substitute Dr. S. Lopez with Dr. Church. (ECF No. 125 at 3.) Dr.
2 Church will provide the same substantive opinion testimony as Dr. Lopez would have. (Id.)
3 His testimony will also be based on a review of Plaintiff's medical records. (Id.)

4 Since Dr. Church will base his testimony on the same set of medical records as Dr. S.
5 Lopez would have and, Plaintiff not having conducted discovery as to the originally identified
6 expert, it does not appear he would be prejudiced by this late substitution of witnesses.

7 Accordingly, Defendants' motion (ECF No. 125) is GRANTED.

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11 IT IS SO ORDERED.

12 Dated: December 5, 2013

13 /s/ Michael J. Seng
14 UNITED STATES MAGISTRATE JUDGE
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