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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

TIMOTHY CRAYTON,
Plaintiff,

No. C 08-00621 WHA (PR)

**ORDER SETTING BRIEFING
SCHEDULE**

v.

CORRECTIONAL OFFICER A.
HEDGPETH, et al.,
Defendants.

_____ /

This is a civil rights action filed under 42 U.S.C. 1983 by a California prisoner proceeding pro se. In the court’s May 1, 2012 order, the court found cognizable eight federal claims. Specifically, in Claim 7, plaintiff claimed that, on July 3, 2008, defendants Hedgpeth, Harrington, and Captain Woods were deliberately indifferent to plaintiff’s need for a grab bar. In Claim 8, plaintiff claimed that, on December 9, 2008, and December 11, 2008, defendants Hedgpeth and Harrington were deliberately indifferent to plaintiff’s need for a grab bar. In Claims 10, 11, 12, 13, 16, and 17, plaintiff alleged that other defendants separately, and in groups, violated RICO, and engaged in retaliation and tampering.

On August 7, 2012, the court granted defendants’ motion to dismiss misjoined defendants and claims. The court found that Claims 7 and 8, raising claims of deliberate indifference, were properly joined, and could proceed without violating Federal Rules of Civil Procedure 18 or 20. However, the court dismissed Claims 10, 11, 12, 13, 16, and 17 without prejudice to re-filing in a separate lawsuit. Alternatively, the court ordered plaintiff to file a

1 second amended complaint **only if** he wished to litigate the RICO and/or retaliation and
2 tampering claims instead of the deliberate indifference claims in this lawsuit. Plaintiff filed two
3 requests for an extension of time, and on October 30, 2012, the court granted a final extension
4 of time for plaintiff to file a second amended complaint within thirty days if he so wished. The
5 court informed plaintiff that the failure to file a second amended complaint would result in the
6 court proceeding with only Claims 7 and 8. More than thirty days have passed, and plaintiff
7 has not filed a second amended complaint. Thus, the court will proceed with only Claims 7 and
8 8.

9 The parties shall comply with the following deadlines. Because of the age of this case,
10 requests for extensions of time will be granted only in the most compelling circumstances.

11 (1) Defendants' motion for summary judgment must be filed no later than 45 days from
12 the filing date of this order.


13 (2) Plaintiff's opposition to defendants' motion for summary judgment must be filed no
14 later than 28 days after defendants' motion is filed.

15 (3) Defendants must file their reply no later than 14 days thereafter.

16 The motion will be ruled upon without oral argument unless the court orders otherwise
17 at a later date.

18 **IT IS SO ORDERED.**

19 Dated: December 14, 2012.



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE

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