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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

KEVIN GUNN,
Plaintiff,
v.
JAMES TILTON, et al.,
Defendants.

Case No. 1:08-cv-01038-LJO-SAB (PC)

ORDER REQUIRING PARTIES TO
NOTIFY COURT WHETHER THEY WILL
CONSENT TO MAGISTRATE JUDGE
JURISDICTION WITHIN FOURTEEN
DAYS

ORDER DIRECTING CLERK OF COURT
TO SEND CONSENT FORMS

Following resolution of Defendants’ motion for summary judgment, this action is proceeding against Defendants Nunley and Medina for excessive force, in violation of the Eighth Amendment of the United States Constitution. This action is current ready to be set for trial.

This Court's Fresno Division carries the heaviest U.S. District Judge caseload in the nation. Although this Court uses its best efforts to resolve civil cases timely, this Court is unable to meet the parties’ needs and expectations. With multiple trials set on the same date, cases trail until the assigned District Judge becomes available. As required by law, this Court gives criminal cases priority over civil trials and other matters. This Court must proceed with criminal trials even if a civil action is older or its trial was set earlier. Continuances of civil trials under these circumstances will no longer be entertained, absent absolute good cause. If multiple trials are scheduled to begin on the same day, trial in this civil action will trail day to day or week to

1 week until completion of any criminal case or older civil case. Moreover, trial in this civil action
2 is subject to suspension mid-trial to accommodate criminal cases.

3 One of this Court's U.S. Magistrate Judges is available to conduct all proceedings in this
4 action, including entry of final judgment, pursuant to 28 U.S.C. § 28 U.S.C. 636(c), Federal Rule
5 of Civil Procedure 73, and Local Rule 305. The same jury pool is used by Magistrate Judges and
6 District Judges. An appeal from Magistrate Judge proceedings is taken directly to the Ninth
7 Circuit Court of Appeals when the parties consent to Magistrate Judge jurisdiction. This Court
8 will direct its Clerk to provide the parties with the Court's form to consent to or decline
9 Magistrate Judge jurisdiction. Within **fourteen days of this order's date of service**, the parties
10 shall file and serve their form to indicate whether they consent to or decline Magistrate Judge
11 jurisdiction.

12 Moreover, this Court's Fresno Division randomly and without advance notice reassigns
13 civil actions to District Judges throughout the nation to serve as visiting judges. In the absence
14 of Magistrate Judge consent, this action is subject to reassignment to a District Judge from
15 outside the Eastern District of California. Case management difficulties, including trial setting
16 and interruption, are avoided if the parties consent to conduct of further proceedings by one of
17 this Court's Magistrate Judges.

18 Accordingly, the court orders that:

19 1. The Clerk of the Court is DIRECTED to provide the parties with the form that
20 will allow them to consent or decline Magistrate Judge Jurisdiction; and

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22 2. Within fourteen days from this order's date of service, the parties shall notify the
23 Court whether they consent to or decline Magistrate Judge jurisdiction by filling out the enclosed

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1 forms and returning them to the Court.

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6 IT IS SO ORDERED.

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Dated: August 30, 2013

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/s/ Lawrence J. O'Neill
UNITED STATES DISTRICT JUDGE

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