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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

LATWAHN McELROY,

Plaintiff,

v.

ROY COX, et al.,

Defendants.

1:08-cv-01221-LJO-GSA-PC

ORDER GRANTING DEFENDANTS’
REQUEST TO SUBSTITUTE TRIAL
WITNESS
(Doc. 144.)

ORDER SUBSTITUTING DR. J. ZWEIFLER
IN PLACE OF TRIAL WITNESS DR. M.
SPAETH

_____ /

This is a civil rights action filed pursuant to 42 U.S.C. § 1983 by Latwahn McElroy (Plaintiff), a state prisoner proceeding pro se and in forma pauperis. This case is scheduled for jury trial to commence on June 19, 2012 at 8:30 a.m. before District Judge Lawrence J. O’Neill. On May 21, 2012, Defendants filed a request to substitute one of their trial witnesses. (Doc. 144.)

Defendants request to substitute Dr. J. Zweifler in place of their trial witness Dr. M. Spaeth. Under the Court’s Pretrial Order, one of Defendants’ trial witnesses is Dr. M. Spaeth, who is to provide an expert opinion based upon her review of Plaintiff’s medical records. (Declaration of Phillip A. Arthur, Doc. 144 at ¶¶2, 3.) Defendants request a substitution based on Dr. M. Spaeth’s determination that attending trial will place an undue burden upon her because she will be required to travel eighty miles each way to and from trial, and she will be unable to provide medical care to the inmate-patients at Kern Valley State Prison during her absence. (Id. at ¶4.) Defendants assert

1 that Dr. J. Zweifler, a certified family physician and executive physician for the California
2 Correctional Healthcare System, is willing and able to testify at trial on June 19, 2012 in this action
3 and will provide the same testimony expected of Dr. M. Spaeth. (Id. at ¶5.)

4 Good cause having been presented to the Court, and GOOD CAUSE APPEARING
5 THEREFOR, IT IS HEREBY ORDERED that:

- 6 1. Defendants' request to substitute one of their trial witnesses is GRANTED; and
- 7 2. Dr. J. Zweifler is now substituted in place of Defendants' trial witness Dr. M. Spaeth.

8 IT IS SO ORDERED.

9 **Dated:** May 22, 2012

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

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