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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

CLAUDE RAYMOND SMITH,

Plaintiff,

v.

S. TALLERICO, et al.,

Defendants.

CASE NO. 1:08-CV-01817-DLB PC

ORDER DENYING PLAINTIFF’S MOTION FOR PROTECTIVE ORDER (DOC. 48)

ORDER GRANTING PLAINTIFF’S MOTION FOR MODIFICATION OF SCHEDULE (DOC. 50)

Discovery Cut-off Date: 9/19/2011
Dispositive Motion Deadline: 10/31/2011

Plaintiff Claude Raymond Smith (“Plaintiff”) is a prisoner in the custody of the California Department of Corrections and Rehabilitation (“CDCR”). Plaintiff is proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. This action is proceeding against Defendant C. Boyer for violation of the Eighth Amendment. Pending before the Court are: 1) Plaintiff’s motion for protective order, filed July 15, 2011 and 2) Plaintiff’s motion for modification of the scheduling order, filed August 15, 2011.

I. Motion For Protective Order

Plaintiff moves the Court for a protective order, seeking to prevent Defendant from accessing Plaintiff’s private information in his central file. Plaintiff requests that Defendant only be allowed to view Plaintiff’s file in Plaintiff’s or medical records technician’s presence.

This is similar to a motion filed by Plaintiff on June 16, 2011. United States Magistrate Judge Oberto denied Plaintiff’s motion during a telephonic status conference held on July 7, 2011. The undersigned finds no reason to grant the pending motion. Plaintiff’s medical history is at issue here as Plaintiff has raised it. Defendant’s counsel has the right to view Plaintiff’s medical history. Defendant’s counsel also agreed during the status conference that any medical

1 records submitted to the Court will be filed under seal. The Court finds this sufficient to protect
2 Plaintiff's privacy interests. Accordingly, Plaintiff's motion for protective order, filed July 15,
3 2011, is DENIED.

4 **II. Modification Of Scheduling Order**

5 Plaintiff moves the Court for an extension of time to the discovery cut-off date and the
6 dispositive motion deadline. The current deadlines are August 19, 2011 for the discovery cut-off
7 date and September 30, 2011 for the dispositive motion deadline. The Court treats this as a
8 motion for modification of the scheduling order pursuant to Rule 16(b)(4) of the Federal Rules of
9 Civil Procedure.

10 The decision to modify a scheduling order is within the broad discretion of the district
11 court. *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 607 (9th Cir. 1992) (quoting *Miller*
12 *v. Safeco Title Ins. Co.*, 758 F.2d 364, 369 (9th Cir. 1985)). Pursuant to Federal Rule of Civil
13 Procedure 16, a pretrial scheduling order "shall not be modified except upon a showing of good
14 cause," and leave of court. Fed. R. Civ. P. 16(b)(4); *Zivkovic v. S. Cal. Edison Co.*, 302 F.3d
15 1080, 1087-88 (9th Cir. 2002). Although "the existence or degree of prejudice to the party
16 opposing the modification might supply additional reasons to deny a motion, the focus of the
17 inquiry is upon the moving party's reasons for seeking modification." *Johnson*, 975 F.2d at 609.

18 Plaintiff contends that he will have no access to the law library for the month of August
19 due to his work schedule and the unavailability of library staff. The Court finds good cause to
20 modify the scheduling order.

21 Based on the foregoing, it is HEREBY ORDERED that:

- 22 1. Plaintiff's motion for modification of the scheduling order, filed August 15, 2011,
23 is GRANTED; and
- 24 2. The discovery cut-off date is September 19, 2011 and the dispositive motion
25 deadline is October 31, 2011.

26 IT IS SO ORDERED.

27 **Dated: August 23, 2011**

/s/ Dennis L. Beck
UNITED STATES MAGISTRATE JUDGE