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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

BARRY LOUIS LAMON,
Plaintiff,
v.
DERRAL ADAMS, et al.,
Defendants.

Case No. 1:09-cv-00205-LJO-JLT PC
**ORDER SUSTAINING DEFENDANTS’
OBJECTION and STRIKING FOOTNOTE
SEVEN OF THE PRETRIAL ORDER**
(Doc. 304)

This action is scheduled for trial on March 8, 2016. On December 15, 2015, the Pretrial Order issued. (Doc. 302.) Defendants timely filed objections (Doc. 304) to footnote seven of the Pretrial Order that required all witnesses Defendants plan to call to be present and available at 9:30 a.m. on the first day of trial for Plaintiff to call for direct examination.

Defendants object to this requirement on the basis that Plaintiff received instruction on the requirements to secure attendance at trial of witnesses -- both voluntary and involuntary -- he desired to call in the presentation of his case. Despite ample opportunity, Plaintiff did not request subpoena’s or submit witness fees for any unincarcerated persons he desired to call as witnesses and his motion for attendance of incarcerated witnesses was denied. Defendants argue that they named a number of non-party witnesses out of an abundance of caution in compliance with Local Rule 281 and that it would be unfair, prejudicial, and place an undue burden on the witnesses, Defendants, and the CDCR to require Defendants to secure their appearance at trial for Plaintiff’s use. Further, Defendants argue that allowing Plaintiff to examine their retained expert in his case

1 in chief will likely confuse the jury as Defendants' evidence/testimony, upon which the expert's
2 opinions are based, will not yet have been presented.

3 Defendants' position is valid.

4 Accordingly, it is HEREBY ORDERED that Defendant's objection, filed on December
5 28, 2015, is SUSTAINED and footnote number 7 is STRICKEN from the Pretrial Order.

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7 IT IS SO ORDERED.

8 Dated: December 31, 2015

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

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