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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

KEVIN DARNELL BRYANT,) Case No.: 1:11-cv-00446-LJO-BAM (PC)
))
)) ORDER REGARDING CONSENT TO
)) MAGISTRATE JUDGE JURISDICTION
))
)) ORDER DIRECTING CLERK OF COURT TO
)) SEND CONSENT FORM TO DEFENDANTS
))
)) **TEN (10) DAY DEADLINE**
))
))
))

Plaintiff Kevin Darnell Bryant (“Plaintiff”) is state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. Now that Plaintiff’s motion for summary judgment has been denied, this matter proceeds on Plaintiff’s claims against Defendant Romero for deliberate indifference to serious medical needs in violation of the Eighth Amendment, and against Defendants Gallagher and Romero for conspiracy, retaliation in violation of the First Amendment, and failure to protect in violation of the Eighth Amendment.

Plaintiff consented to Magistrate Judge jurisdiction for all purposes in this matter on March 30, 2011. (ECF No. 7.) Defendants Gallagher and Romero previously declined Magistrate Judge jurisdiction on February 28, 2012. (ECF No. 52).

Now that the case is ready to be set for trial, the parties are advised of the following important information about scheduling and trailing cases before the undersigned:

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1 District Court Judges of the Fresno Division of the Eastern District of California have the
2 heaviest caseload in the nation. As a result, each District Judge schedules multiple trials to begin on
3 each available trial date. Civil cases will trail and begin as soon as a courtroom is cleared. The law
4 requires that the Court give any criminal trial priority over civil trials or any other matter. A civil trial
5 set to begin while a criminal trial is proceeding will trail the completion of the criminal trial.

6 The Court cannot give advance notice of which cases will trail or for how long because the
7 Court does not know which cases actually will go to trial or precisely how long each will last. Once
8 your trial date arrives, counsel, parties and witnesses must remain on 24-hour-stand-by until a court
9 opens. Since continuance to a date certain will simply postpone, but not solve, the problem,
10 continuances of any civil trial under these circumstances will no longer be entertained, absent a
11 specific and stated finding of good cause. The Court will use its best efforts to mitigate the effect of
12 the foregoing and to resolve all cases in a timely manner.

13 One alternative is for the parties to consent to a United States Magistrate Judge conducting all
14 proceedings, including trial and entry of final judgment, pursuant to 28 U.S.C. § 636(c), Federal Rule
15 of Civil Procedure 73, and Local Rule 305. The Eastern District Magistrate Judges, all experienced
16 former trial lawyers, use the same jury pool and same court facilities as United States District Court
17 Judges. Since Magistrate Judges do not conduct felony trials, they have greater flexibility and schedule
18 firm trial dates. Judgment entered by a United States Magistrate Judge is appealable directly to the
19 United States Court of Appeal for the Ninth Circuit. (While there are scheduling benefits to consenting
20 to Magistrate Judge jurisdiction, substantive rulings and decisions will not be affected by whether a
21 party chooses to consent or not. Declining jurisdiction of a Magistrate Judge for all purposes will have
22 no effect on the merits of a party's case or have any adverse substantive consequences.)

23 As another response to its large caseload, the Fresno Division of the Eastern District of
24 California is assigning cases, whenever possible, to Article III District Court Judges from around the
25 nation as Visiting Judges. Pursuant to the Local Rules, Appendix A, such reassignments will be
26 random, and the parties will receive no advance notice before their case is reassigned to an Article III
27 District Court Judge from outside of the Eastern District of California.

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Accordingly, it is HEREBY ORDERED that:

1. The Clerk's Office shall send to Defendants a consent/decline form;

2. Within ten (10) days from the date of service of this order, Defendants may return the form to the Court indicating whether they choose to consent or decline to Magistrate Judge jurisdiction for all further proceedings in this matter, including trial and entry of final judgment; and

3. After the ten (10) day deadline, if both parties have not consented to Magistrate Judge jurisdiction, the matter will be set for jury trial before the undersigned.

IT IS SO ORDERED.

Dated: March 21, 2016

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