

1
2
3
4
5
6
7
8 **UNITED STATES DISTRICT COURT**
9 **EASTERN DISTRICT OF CALIFORNIA**
10

11 GARY WILLIAMS,

12 Plaintiff,

13 v.
14

15 S. STEGLINSKI,

16 Defendant.
17
18

Case No. 1:12-cv-00786-SAB

SECOND TRIAL ORDER

Motion In Limine Deadlines:

Filing: February 22, 2016

Opposition: March 14, 2016

Reply: March 21, 2016

Hearing: March 28, 2016, at 11:00 a.m.
in Courtroom 9 (SAB)

Trial Date: April 7, 2016, at 8:30 a.m. in
Courtroom 9 (SAB); 2 Days

19 Plaintiff Gary Williams is appearing pro se and in forma pauperis in this civil rights
20 action pursuant to 42 U.S.C. § 1983.

21 This action is proceeding against Defendant S. Steglinski for excessive force in violation
22 of the Eighth Amendment.

23 The Court held a telephonic pretrial conference on January 22, 2016. The Court
24 informed the parties that in light of the Court's upcoming civil class action trial, which was
25 confirmed that same day, the trial date in this matter must be rescheduled. The matter is now set
26 for a 2 day jury trial beginning on April 7, 2016, at 8:30 a.m. in Courtroom 9, before the
27 undersigned. Defendant will confirm the April 7, 2016 trial date by contacting Courtroom
28

Deputy, Mamie Hernandez, at (559) 499-5672, by January 29, 2016.¹

1. Pretrial Statements

Pursuant to the Court's September 15, 2015 trial scheduling order, Plaintiff's pretrial statement was due on or before January 1, 2016. (ECF No. 76.) On January 14, 2016, the Court directed Plaintiff to file his pretrial statement on or before January 20, 2016. (ECF No. 81.) To date, Plaintiff has not filed his pretrial statement. During the January 22, 2016 pretrial conference, Plaintiff stated that he mailed his pretrial statement on January 20, 2016. Because Plaintiff did not file his Pretrial Statement timely pursuant to this Court's order, the Court grants Defendant's request to file an amended pretrial statement within seven (7) days from the filing date of Plaintiff's pretrial statement. The Court will then issue a pretrial order.

2. Motions In Limine Hearing and Briefing Schedule

Any party may file a motion in limine, which is a procedural mechanism to limit in advance testimony or evidence in a particular area. United States v. Heller, 551 F.3d 1108, 1111 (9th Cir. 2009). In the case of a jury trial, the Court's ruling gives Plaintiff and Defendants' counsel advance notice of the scope of certain evidence so that admissibility is settled before attempted use of the evidence before the jury. Id. at 1111-1112. Although the Federal Rules do not explicitly provide for the filing of motions in limine, the Court has the inherent power to hear and decide such motions as a function of its duty to expeditiously manage trials by eliminating evidence that is clearly inadmissible for any purpose. Luce v. United States, 469 U.S. 38, 41 n.4 (1984).

This Court further orders the parties to file motions in limine only with respect to important, critical issues. Motions in limine on abstract evidentiary issues or issues more appropriately addressed by the Court on a case-by-case basis (such as a motion in limine to exclude all irrelevant evidence) will be looked upon with disfavor. After satisfying the forgoing, if a motion in limine still seeks to address the admissibility of a particular trial exhibit, the

¹ Because the court is unavailable for trial the following week (April 11-15), the Court entertain a request to pick a jury and do opening statements in the afternoon of Wednesday, April 6, but not call witnesses until Thursday, April 7, 2016. However, such a request can only be entertained if the court is able to advance its other jury trial set for that week from Tuesday, April 6 to Monday, April 5.

exhibit in question must be referenced by the trial exhibit number so that the court can review the actual exhibit for admissibility. If the exhibit sought to be admitted would not be in the court's possession one week prior to the motion in limine hearing, then the exhibit in question must be included in the motion. Failure to properly reference or attach an exhibit in the motion will result in the request being denied.

The parties shall not file separate motions in limine for every issue presented to the Court. Rather, if a party wishes to file a motion in limine, each party shall file one consolidated motion in limine which is subdivided into separate sections for each issue setting for the legal authority and analysis. The responding party shall file one opposition in response addressing each motion in limine issue in a separate section.

The deadline for service and filing of motions in limine is February 22, 2016. The deadline for service and filing of an opposition, if any, is March 14, 2016. The deadline for service and filing of a reply, if any, is March 21, 2016. A telephonic motions in limine hearing will be held on March 28, 2016, at 11:00 a.m. in Courtroom 9, before the undersigned. Counsel for defendants is directed to arrange for telephone contact with Plaintiff and to contact the Courtroom Deputy, Mamie Hernandez, at (559) 499-5672, prior to the hearing date, to receive instructions regarding the conference call.

3. Pre-Marked and Exchange of Exhibits

The Court continues the February 2, 2016 deadline for the parties to exchange their final exhibit list and pre-marked exhibits. The Court sets the new date as Tuesday, February 16, 2016.

ORDER

Accordingly, IT IS HEREBY ORDERED that:

1. Defendant shall serve and file an amended pretrial statement within **seven (7)** days of the date that Plaintiff's pretrial statement is filed on CM/ECF;
2. Motions in limine are due on or before **February 22, 2016**. Oppositions to the motions in limine are due on or before **March 14, 2016**. Replies to the motions in limine are due on or before **March 21, 2016**. This matter is set for motion in

1 limine hearing before the Honorable Stanley A. Boone on **March 28, 2016, at**
2 **11:00 a.m.**, in Courtroom 9;

3 3. This matter is set for jury trial before the Honorable Stanley A. Boone on
4 **April 7, 2016, at 8:30 a.m.** in Courtroom 9;

5 4. Counsel for Defendant is required to arrange for the participation of Plaintiff in
6 the motion in limine hearing and to contact Courtroom Deputy, Mamie
7 Hernandez, at (559) 499-5672, prior to the hearing date, to receive instructions
8 regarding the conference call;

9 5. Premarking and exchanging of exhibits shall occur on or before February 16,
10 2016; and

11 5. In addition to electronically filing their amended pretrial statement, Defendants
12 shall e-mail the amended pretrial statement to: **saborders@caed.uscourts.gov**.

13
14 IT IS SO ORDERED.

15
16 Dated: **January 22, 2016**

17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES MAGISTRATE JUDGE