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

C. DWAYNE GILMORE,)	Case No.: 1:12-cv-00925-SAB (PC)
)	
Plaintiff,)	
)	ORDER GRANTING EXTENSION OF TIME TO
v.)	PLAINTIFF TO FILE MOTIONS IN LIMINE
)	
C. LOCKARD, et al.,)	(ECF No. 222)
)	
Defendants.)	ORDER DIRECTING CLERK TO EMAIL COPY
)	OF ORDER TO LITIGATION COORDINATOR
)	
)	Plaintiff's Motion <u>in Limine</u> , and Responses to
)	Defendants' Motion <u>in Limine</u> , Due:
)	February 8, 2017
)	
)	

Plaintiff C. Dwayne Gilmore is appearing pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. This action is proceeding against Defendants Lockard, Lopez, and Hightower for excessive force in violation of the Eighth Amendment. All parties have consented to the jurisdiction of a United States Magistrate Judge. (ECF Nos. 8, 199.)

On January 20, 2017, Plaintiff filed a motion to enforce order and modify trial scheduling order, discussing that he had not been served with Defendants' proposed trial exhibits prior to the motions in limine deadline. Thus, he had not had an opportunity to prepare challenges to their admissibility in any motions in limine. (ECF No. 222.) The Court ordered an expedited response from Defendants to Plaintiff's motion. (ECF No. 224).

On January 26, 2017, Defendants filed a response to Plaintiff's motion, supported by a declaration of counsel. (ECF No. 225.) Defense counsel declares that the exhibits were mailed to Plaintiff on the January 3, 2017 deadline for exchange of exhibits. A declaration of service and cover

1 letter to the litigation coordinator discussing the mailing is attached to counsel's declaration. Counsel
2 also confirmed this mailing after the January 9, 2017 telephonic trial confirmation hearing as
3 requested by the Court, after Plaintiff stated during that hearing that he had not yet received the
4 exhibits. Upon confirming that the exhibits were mailed, defense counsel presumed the exhibits were
5 still in transmission.

6 Counsel further declares that when she was notified by the filing of Plaintiff's January 20,
7 2017 motion that the exhibits had not been received by Plaintiff, she investigated what happened, and
8 was unable to determine why Plaintiff never received the exhibits. On January 24, 2017, counsel
9 prepared an overnight mailing with the exhibits to Plaintiff, and confirmed with the litigation
10 coordinator at Plaintiff's institution that the exhibits were personally delivered to Plaintiff on January
11 25, 2017. (ECF No. 225 ¶¶ 4-7.) An email from the litigation coordinator confirming these
12 representations is provided. Defendants agree that due to this delay in service, Plaintiff should be
13 allowed additional time to review the exhibits and file a motion in limine concerning the exhibits.

14 Good cause having been shown, the Court will extend the deadline set in the Pretrial Order for
15 Plaintiff to file his motion(s) in limine. Furthermore, the Court shall direct the Clerk of the Court to
16 serve a copy of this order on the Litigation Coordinator at California State Prison, Centinela
17 ("Centinela"), where Plaintiff is currently held, via email. The Court shall respectfully request that the
18 Centinela Litigation Coordinator deliver the emailed copy of this order to Plaintiff so that he is
19 apprised of this information as quickly as possible.

20 Defendants have also served Plaintiff with motions in limine on January 17, 2017, and
21 Plaintiff's responses to those motions are due on January 31, 2017. As Plaintiff had a motion pending
22 regarding these deadlines, and to avoid any potential confusion, the Court will also extend Plaintiff's
23 deadline to file and serve any response to Defendants' motions in limine, if he has not yet done so.

24 The Court does not find good cause to vacate the February 13, 2017 motion in limine hearing
25 date, or the February 28, 2017 trial date in this matter, and thus Plaintiff's request to extend those
26 dates is denied. The deadline extensions here minimize any harm to Plaintiff from the delayed
27 mailings. Defendants may file a written response to Plaintiff's motions in limine at any time prior to
28 the hearing, and all parties will be afforded a full opportunity for oral argument at that hearing.

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Accordingly, it is HEREBY ORDERED that:

1. Plaintiff's motion for Court to enforce order and modify trial scheduling order (ECF No. 222) is granted in part and denied in part
2. Plaintiff may file with the Court and serve on Defendants any motion(s) in limine, and any opposition to Defendant's motion(s) in limine, by **February 8, 2017**. Defendants may serve and file any written opposition to Plaintiff's motion(s) in limine by the morning of **February 13, 2017**;
3. All other provisions of the Court's Pretrial Order dated January 9, 2017 remain in full force and effect;
4. The Clerk of the Court is directed to serve a copy of this order on the Centinela Litigation Coordinator via email; and
5. The Centinela Litigation Coordinator is respectfully requested to deliver the emailed copy of this order to Plaintiff as soon as practicable.

IT IS SO ORDERED.

Dated: January 27, 2017


UNITED STATES MAGISTRATE JUDGE