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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

IRMA B. SANCHEZ,

Plaintiff,

v.

CALIFORNIA DEPARTMENT OF
CORRECTIONS AND REHABILITATION
and SYDNEY SMYTH,

Defendants.

Case No. 1:12-cv-01835-SAB

ORDER REQUIRING SUPPLEMENTAL
BRIEFING ON DEFENDANTS' MOTION
FOR A NEW TRIAL AND VACATING
AUGUST 26, 2015 HEARING

Deadline for Defendants' Supplemental
Briefing: October 16, 2015

Deadline for Plaintiff's Supplemental
Opposition: November 2, 2015

After a twelve day trial in this action, the jury found in favor of Plaintiff Sanchez and awarded \$550,000.00 in compensatory damages against Defendants California Department of Corrections and Rehabilitation and Smyth, and \$15,000.00 in punitive damages against Defendant Smyth. (ECF Nos. 178, 179, 182.) On July 10, 2015, Defendants filed a motion for a new trial. (ECF Nos. 195-196.) Plaintiff filed an opposition on August 5, 2015, and Defendants filed a reply on August 12, 2015. (ECF Nos. 220, 224-25.)

In the moving papers the parties dispute whether the evidence presented at trial was sufficient to support the verdict and damages award entered by the jury. The issues related to the motion to dismiss require an examination of the testimony and evidence that was presented at the trial of this action. Local Rule 291.1 of the Eastern District of California provides that motions

1 for a new trial based on the ground of insufficient of the evidence shall include “specific
2 references to relevant portions of any existing record.” In the opposition to Defendants’ motion,
3 Plaintiff requests that the motion be denied on the basis that Defendant has failed to include a
4 transcript of the record in support of the motion for a new trial. Defendant replies that an attempt
5 was made to order a trial transcript but it was unable to be obtained prior to the deadline to file
6 post-trial motions.

7 The Court finds that since the issues to be addressed here require review of the testimony
8 presented at trial, the parties shall be required to cite to the trial transcript to support their
9 respective positions regarding the sufficiency of the evidence. Therefore, the hearing set for
10 August 26, 2015 shall be vacated and the parties will not be required to appear at the time. As
11 the resolution of Defendants’ motion for a new trial will determine whether attorney fees should
12 be awarded in this action, the Court will consider Plaintiff’s motion for attorney fees after the
13 motion for a new trial is decided. Should the Court determine that a hearing on the motions
14 before the Court are necessary after the supplemental briefing is filed, an order shall issue setting
15 a new hearing date.

16 Accordingly, IT IS HEREBY ORDERED that:

- 17 1. The hearing set for August 26, 2015 at 10:00 a.m. in Courtroom 9 is VACATED;
- 18 2. On or before October 16, 2015, Defendants shall file supplemental briefing
19 specifying the specific testimony in the record that supports their position that
20 Plaintiff did not present sufficient evidence to support the jury verdict; and
- 21 3. On or before November 2, 2015, Plaintiff shall file a supplemental opposition
22 specifying those portions of the record that support the position that sufficient
23 evidence was presented to support the jury verdict; and

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4 Defendants' motion for a new trial shall be deemed submitted upon the filing of Plaintiff's supplemental opposition.

IT IS SO ORDERED.

Dated: August 21, 2015



UNITED STATES MAGISTRATE JUDGE