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

DALE L. COTTRELL,)	Case No.: 1:13-cv-01530-LJO-SAB (PC)
)	
Plaintiff,)	
)	ORDER REGARDING CONSENT TO UNITED STATES MAGISTRATE JUDGE
v.)	
)	ORDER DIRECTING CLERK OF COURT TO SEND PARTIES CONSENT/DECLINE FORMS
FELIX IGBINOSA, et al.,)	
)	
Defendants.)	
)	
)	

Plaintiff Dale L. Cottrell is appearing pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff declined United States Magistrate Judge jurisdiction on July 8, 2015 (ECF No. 7), and Defendants have not consented or declined.

This action is proceeding against Defendants Lackey and Berard for deliberate indifference to a serious medical need in violation of the Eighth Amendment. 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:

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

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

8 One alternative is for the parties to consent to a United States Magistrate Judge conducting all
9 proceedings, including trial and entry of final judgment, pursuant to 28 U.S.C. § 636(c), Federal Rule
10 of Civil Procedure 73, and Local Rule 305. The Eastern District Magistrate Judges, all experienced
11 former trial lawyers, use the same jury pool and same court facilities as United States District Court
12 Judges. Since Magistrate Judges do not conduct felony trials, they have greater flexibility and
13 schedule firm trial dates. Judgment entered by a United States Magistrate Judge is appealable directly
14 to the United States Court of Appeal for the Ninth Circuit. (While there are scheduling benefits to
15 consenting to Magistrate Judge jurisdiction, substantive rulings and decisions will not be affected by
16 whether a party chooses to consent or not.)

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

22 Accordingly, it is HEREBY ORDERED that:

- 23 1. The Clerk's Office shall send the parties consent/decline forms;
- 24 2. Within twenty (20) days from the date of service of this order, the parties may return
25 the consent form to the Court; and

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3. After the twenty (20) day deadline has expired, if all parties have not consented to United States Magistrate Judge jurisdiction the matter will be set for jury trial before the undersigned.

IT IS SO ORDERED.

Dated: March 21, 2017

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