



1 **I. DISCOVERY PROCEDURES**

2 The parties were previously instructed in the Court’s discovery procedures in the Court’s  
3 June 14, 2016 order. (ECF No. 42.) Pursuant to Federal Rules of Civil Procedure 1, 16, and 26-  
4 36, and as discussed on the record, the Court issues the following additional discovery orders:

- 5 1. Defendants have withheld documents on the basis of the official information privilege.  
6 Defendants shall submit any such documents to the Court for *in camera* review no  
7 later than **November 11, 2016**. If any additional documents are withheld on the basis  
8 of official information privilege, Defendants shall submit those documents for *in*  
9 *camera* review no more than **2 weeks** after the privilege objection is served on  
10 Plaintiff.
- 11 2. Pursuant to Defendants’ request, **November 25, 2016** shall be the final date for either  
12 party to serve any discovery request.
- 13 3. With the Court’s permission, Plaintiff may serve third party subpoenas, including on  
14 the California Department of Corrections and Rehabilitation if Plaintiff seeks  
15 documents from them. To issue a subpoena on these entities, or any other third parties,  
16 Plaintiff must file a request for the issuance of a subpoena *duces tecum* with the Court.  
17 If the Court approves the request, it may issue Plaintiff a subpoena *duces tecum*,  
18 commanding the production of documents from a non-party, and may command  
19 service of the subpoena by the United States Marshal Service. Fed. R. Civ. P. 45; 28  
20 U.S.C. 1915(d). However, the Court will consider granting such a request *only if* the  
21 documents sought from the non-party are not equally available to Plaintiff and are not  
22 obtainable from Defendant(s) through a request for production of documents. Fed. R.  
23 Civ. P. 34. In any request for a subpoena, Plaintiff must: (1) identify with specificity  
24 the documents sought and from whom, and (2) make a showing in the request that the  
25 records are only obtainable through that third party. The documents requested must  
26 also fall within the scope of discovery allowed in this action. See Fed. R. Civ. P.  
27 26(b)(1).
- 28 4. Within **thirty (30) days** from the date of this Order, Defendant(s) shall disclose to the  
Plaintiff the identity of the John Doe defendants or, if the Defendant(s) are unable to

1 make a specific identification, any document or information which would assist in the  
2 identification of the John Does. Defendant(s) are not required to produce photographs  
3 of CDCR employees or inmates. Plaintiff shall have until **December 14, 2016** to: (a)  
4 move to amend the complaint to add or substitute specific defendants for the John  
5 Does; (b) identify additional steps that can be taken to identify the John Does who  
6 remain unidentified; or (c) move to amend the complaint to include any additional  
7 claims or parties. Failure to comply with this requirement will result in the dismissal  
8 of the John Does, and will bar further amendment of the complaint, unless good cause  
9 for the amendment can be shown.

- 10 5. A discovery conference has been set for **January 25, 2017 at 2:00 p.m.** Two weeks  
11 before the discovery conference, the parties may file a motion to compel further  
12 discovery responses. One week before the discovery conference, the responding party  
13 may file a response to the motion to compel. The motion should include a copy of the  
14 request(s) and any response to the request(s) at issue. Unless there is a need for  
15 discovery prior to the conference, no motions to compel shall be filed earlier than the  
16 dates set forth above. Motions to compel will not be permitted after the discovery  
17 conference absent good cause. The parties should be prepared to address all discovery  
18 disputes at the discovery conference.

## 18 **II. EXHAUSTION MOTIONS**

19 Defendants have filed a motion for summary judgment under Fed. R. Civ. P. 56 for failure  
20 to exhaust administrative remedies. (ECF No. 43.) Given the disputes of fact regarding the issue  
21 of exhaustion of administrative remedies, which were discussed on the record, the Court will  
22 conduct an *Albino* evidentiary hearing. See Albino v. Baca, 747 F.3d 1162, 1170 (9th Cir. 2014),  
23 cert. denied sub nom. Scott v. Albino, 135 S.Ct. 403 (2014). Following the hearing, the Court  
24 will issue findings and recommendations on the issue of exhaustion. The *Albino* evidentiary  
25 hearing is set for **November 17, 2016 at 10:00 a.m.** in Courtroom 10.

## 26 **III. DISCOVERY DEADLINE**

27 The deadline for the completion of all discovery is **February 14, 2017**. All discovery  
28 must be provided by this date, including discovery compelled following the discovery conference.

1 **IV. DISPOSITIVE MOTIONS DEADLINE**

2 The deadline for filing all dispositive motions pursuant to Fed. R. Civ. P. 56 is **April 24,**  
3 **2017.**

4 **V. SETTLEMENT CONFERENCE**

5 Based on the pending motion for summary judgment and the lack of a settlement demand  
6 from Plaintiff, the parties have not agreed that a settlement conference is appropriate at this time.  
7 Plaintiff is encouraged to submit a demand for settlement to Defendants and the parties are  
8 encouraged to contact the Court for any assistance in scheduling a settlement conference. Note  
9 that a settlement conference will be required before trial.

10 **VI. MAGISTRATE JUDGE JURISDICTION**

11 The parties have declined the jurisdiction of a Magistrate Judge pursuant to 28 U.S.C. §  
12 636(c). (ECF No. 17.)

13 **VII. TELEPHONIC TRIAL CONFIRMATION HEARING**

14 The Telephonic Trial Confirmation Hearing is set for **February 5, 2018 at 1:30 p.m.**, in  
15 Courtroom 5, before District Judge Dale A. Drozd.

16 **VIII. COURT TRIAL DATE**

17 A trial is set for **April 3, 2018 at 8:30 a.m.**, in Courtroom 5, before District Judge Dale A.  
18 Drozd.

19 **IX. EFFECT OF THIS ORDER**

20 This order represents the Court and the parties' best estimated schedule to complete this  
21 case. Any party unable to comply with the dates outlined in this order shall immediately file an  
22 appropriate motion or stipulation identifying the requested modification(s).

23 *The dates set in this Order are considered to be firm and will not be modified absent a*  
24 *showing of good cause, even if a stipulation to modify is filed.* Due to the impacted nature of the  
25 civil case docket, this Court disfavors requests to modify established dates.

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Failure to comply with this order shall result in the imposition of sanctions.

IT IS SO ORDERED.

Dated: October 13, 2016

/s/ Eric P. Gray  
UNITED STATES MAGISTRATE JUDGE