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

PHILLIP SANDERS,  
  
  Plaintiff,  
  
                        v.  
  
MATTHEW, *et al.*  
  
  Defendants.

**Case No. 1:15-cv-00395-LJO-EPG**  
  
**ORDER GRANTING MOTION TO  
CONTINUE SCHEDULING  
CONFERENCE AND DENYING  
REQUEST TO SET THE SCHEDULING  
CONFERENCE BEFORE JUDGE  
O’NEILL**  
  
(ECF No. 44)

Plaintiff is proceeding *pro se* and *in forma pauperis* under 42 U.S.C. § 1983 on claims for unlawful arrest (claims 4-5) and excessive force claims (claims 2 and 6) against defendants Matthew and Sturgeon. (ECF No. 25). A scheduling conference is set for August 8, 2017 before the undersigned Magistrate Judge, Erica P. Grosjean. (ECF No. 32).

Plaintiff has filed the instant motion requesting that a new scheduling conference be set before Chief U.S. District Judge Lawrence J. O’Neill. (ECF No. 44). Plaintiff reasons that he has declined Magistrate Judge jurisdiction, and therefore, the scheduling conference should be reset before Judge O’Neill.

Where the parties have elected not to consent to the jurisdiction of a Magistrate Judge, a District Judge will remain as the presiding judge on the case and a Magistrate Judge will remain

1 on the case as the referral judge. Local Rule 302 outlines the division of labor between District  
2 Judges and Magistrate Judges in this District. *See* CAED-LR 302(a). That Rule provides that a  
3 Magistrate Judge shall perform all duties permitted by statute or other law. *Id.* Title 28, United  
4 States Code, Section 636 provides that a District Judge may designate a Magistrate Judge to “hear  
5 and determine any pretrial matter pending before the court, except [certain enumerated motions].”  
6 28 U.S.C. § 636(b)(1)(A). In a civil case such as this one, Local Rule 302(c) lists all of the duties  
7 to be performed by a Magistrate Judge. *See* CAED-LR 302(c). Thus, the Magistrate Judge, as  
8 referral judge, is designated to handle pretrial duties as described in Local Rule 302(c), while the  
9 District Judge, as presiding judge, will have final say on all dispositive motions and will preside  
10 over any trial. *See* 28 U.S.C. § 636(b)(1)(B)-(C); Fed. R. Civ. P. 72(b); CAED-LR 304.

11 Here, the scheduling conference will not be set before Judge O’Neill, as requested,  
12 because that duty has been designated to be performed by a Magistrate Judge. *See* CAED-LR  
13 302(c)(13) (listing “all pretrial scheduling conferences” as one of the duties designated to  
14 Magistrate Judges in Fresno).

15 Plaintiff also requests that the scheduling conference be continued for health reasons.  
16 (ECF No. 44). The Court GRANTS this request, but WARNS Plaintiff that additional  
17 continuances are unlikely to be granted.

18 The Initial Scheduling Conference set for August 8, 2017 is therefore CONTINUED to  
19 August 22, 2017 at 10:30 AM in Courtroom 10 (EPG) before Magistrate Judge Erica P. Grosjean.  
20 The Court reincorporates by reference the requirements of its prior order setting the initial  
21 scheduling conference dated May 5, 2017. (ECF No. 32).

22 Attendance at the Scheduling Conference is *mandatory* for all parties. Parties may appear  
23 by their counsel, if represented. If a party is not represented by counsel, they must appear  
24 personally at the Scheduling Conference. **Telephonic appearances are not available for pro se**  
25 **parties, i.e., those not represented by counsel.** Trial counsel should participate in the Scheduling  
26 Conference whenever possible. Additionally, although not required, local counsel are encouraged  
27 to personally appear at the scheduling conference.  
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If one or more parties are represented by counsel and wish to appear telephonically, counsel shall contact Michelle Rooney, Courtroom Deputy Clerk, at (559) 499-5962 sufficiently in advance of the conference so that a notation can be placed on the Court's calendar. Additionally, counsel are directed to indicate on the face page of their Joint Scheduling Report that the conference will be telephonic. If the parties are appearing telephonically, each party shall dial 1-(888) 251-2909 and enter access code 1024453.

IT IS SO ORDERED.

Dated: August 1, 2017

/s/ Eric P. Gray  
UNITED STATES MAGISTRATE JUDGE