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7 UNITED STATES DISTRICT COURT  
8 EASTERN DISTRICT OF CALIFORNIA  
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10 ELAINE K. VILLAREAL,

11 Plaintiff,

12 v.

13 COUNTY OF FRESNO and SHERIFF  
14 MARGARET MIMS,

15 Defendants.

Case No. 1:15-cv-01410-DAD-EPG (PC)

ORDER FOLLOWING HEARING

ORDER DIRECTING CLERK TO SEND  
PLAINTIFF COPY OF THIS ORDER

16 Elaine Villareal (“Plaintiff”) is a prisoner proceeding *in forma pauperis* with this civil  
17 rights action filed pursuant to 42 U.S.C. § 1983. On July 27, 2018, the Court held a hearing in  
18 this case. Counsel Jeff Price personally appeared on behalf of Plaintiff. Counsel Scott  
19 Hawkins personally appeared on behalf of Defendants.

20 For the reasons stated on the record, and in an effort to secure the just, speedy, and  
21 inexpensive disposition of this action,<sup>1</sup> IT IS ORDERED that:

- 22 I. Discovery is now open. Defendant’s objection to the opening of discovery is  
23 overruled, except that Plaintiff may not take discovery as to her claim regarding a  
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26 <sup>1</sup> See, e.g., *United States v. W.R. Grace*, 526 F.3d 499, 508–09 (9th Cir. 2008) (“We begin with the  
27 principle that the district court is charged with effectuating the speedy and orderly administration of justice. There  
28 is universal acceptance in the federal courts that, in carrying out this mandate, a district court has the authority to  
enter pretrial case management and discovery orders designed to ensure that the relevant issues to be tried are  
identified, that the parties have an opportunity to engage in appropriate discovery and that the parties are  
adequately and timely prepared so that the trial can proceed efficiently and intelligibly.”).

1 lack of programming at Fresno County Jail. The Court may further limit discovery  
2 at a later date based on the outcome of the pending motion to dismiss.

3 II. A Mandatory Scheduling Conference is set for August 27, 2018, at 1:30 p.m., before  
4 United States Magistrate Judge Erica P. Grosjean, in Courtroom 10 at the United  
5 States Courthouse, 2500 Tulare Street, Fresno, CA 93721. Defendants may appear  
6 by their counsel. Counsel have leave to appear by phone. Plaintiff shall appear  
7 telephonically. Parties appearing by phone shall dial 1-(888) 251-2909 and enter  
8 access code 1024453.

9 III. Plaintiff shall make arrangements with staff at her institution of confinement for her  
10 attendance at the Mandatory Scheduling Conference, in addition to the appearance  
11 of Plaintiff's counsel. Plaintiff's institution of confinement shall make Plaintiff  
12 available for the conference at the date and time indicated above. Additionally,  
13 defense counsel is hereby ordered to confirm with Plaintiff's institution of  
14 confinement that arrangements have been made for Plaintiff's attendance prior to  
15 the conference.

16 IV. A Joint Scheduling Report, carefully prepared and executed by all counsel, shall be  
17 electronically filed in CM/ECF, by August 23, 2018, and shall be emailed in Word  
18 format to [epgorders@caed.uscourts.gov](mailto:epgorders@caed.uscourts.gov). The Joint Scheduling Report shall indicate  
19 the date, time, and courtroom of the Scheduling Conference. This information is to  
20 be placed opposite the caption on the first page of the Report. The Joint Scheduling  
21 Report shall contain the following items by corresponding numbered paragraphs:

- 22 1. Whether the parties intend to conduct any inspections of the facility at issue,  
23 and any agreement or dispute regarding when and under what circumstances  
24 such an inspection shall take place;
- 25 2. Categories of documents likely to be the subject of discovery, and their  
26 location;
- 27 3. A proposed deadline for amendments to pleadings. Any proposed  
28 amendment to the pleadings shall be referenced in the Scheduling

1 Conference Report. If the matter cannot be resolved at the Scheduling  
2 Conference, the moving party shall file a motion to amend in accordance  
3 with the Local Rules of the Eastern District of California.

4 4. A complete and detailed discovery plan addressing the following issues and  
5 proposed dates:

- 6 i. A date for the exchange of initial disclosures required by Fed. R. Civ.  
7 P. 26(a)(1) or a statement that disclosures have already been  
8 exchanged;
- 9 ii. A firm cut-off date for non-expert discovery. When setting this date,  
10 the parties are advised that motions to compel must be filed and  
11 heard sufficiently in advance of the deadlines so that the Court may  
12 grant effective relief within the allotted discovery time. The Court  
13 recommends this date be scheduled no later than nine (9) months  
14 from the scheduling conference;
- 15 iii. A date for a mid-status discovery conference that should be  
16 scheduled approximately six (6) months after the scheduling  
17 conference, or two (2) months before the non-expert discovery  
18 deadline, whichever is earliest;
- 19 iv. A firm date for disclosure of expert witnesses, required by Fed. R.  
20 Civ. P. 26(a)(2), rebuttal experts, as well as the cut-off for the  
21 completion of all expert discovery. The parties shall allow thirty (30)  
22 days between each of the expert discovery deadlines.
- 23 v. A date for the filing of dispositive motions (except motions in limine  
24 or other trial motions). The Court suggests this date be forty-five  
25 (45) days after the expert discovery deadline.
- 26 vi. A pre-trial conference date which shall be approximately two  
27 hundred and ten (210) days after the dispositive motion filing  
28 deadline.

1                   vii. A trial date which shall be approximately sixty (60) days after the  
2                   proposed pre-trial conference date.

- 3                   5. The parties are encouraged to discuss settlement, and must include a  
4                   statement in the Joint Scheduling Report as to the possibility of settlement.  
5                   The parties shall indicate when they desire a settlement conference, *e.g.*,  
6                   before further discovery, after discovery, after pre-trial motions, *etc.*  
7                   Among other things, counsel will be expected to discuss the possibility of  
8                   settlement at the Scheduling Conference.
- 9                   6. A statement as to whether the case is a jury or non-jury case. The parties  
10                  shall briefly outline their respective positions if there is a disagreement as to  
11                  whether a jury trial has been timely demanded, or as to whether a jury trial is  
12                  available on some or all of the claims.
- 13                 7. A statement as to whether documents were generated in connection with any  
14                  investigation related to the event(s) at issue in the Complaint or the  
15                  processing of Plaintiff's grievance(s), and if there were, whether those  
16                  documents are subject to any claims of privilege.
- 17                 8. A statement as to whether any party intends to challenge the issue of  
18                  exhaustion, and if so, when that party intends to file a motion for summary  
19                  judgment regarding the issue of exhaustion.
- 20                 9. An estimate of the number of trial days required. If the parties cannot agree,  
21                  each party shall give his or her best estimate.
- 22                 10. The parties' position regarding consent to proceed before a United States  
23                  magistrate judge. Note that the parties need not make a final decision on the  
24                  issue of consent until after the Scheduling Conference, but should state their  
25                  current position in this Statement and expect to make a final decision soon  
26                  after the Scheduling Conference. The parties may wish to consider that,  
27                  when a civil trial is set before the district judges in the Fresno Division, any  
28                  criminal trial or older civil trial that conflicts with the civil trial will take

1 priority, even if the civil trial was set first. Continuances of civil trials under  
2 these circumstances may no longer be entertained, absent good cause, but  
3 the civil trial may instead *trail* from day to day or week to week until the  
4 completion of either the criminal case or the older civil case. Parties are free  
5 to withhold consent or decline magistrate jurisdiction without adverse  
6 substantive consequences.

7 V. The Clerk of Court is directed to send Plaintiff a copy of this order.

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9 IT IS SO ORDERED.

10 Dated: July 27, 2018

11 /s/ Eric P. Grogan  
12 UNITED STATES MAGISTRATE JUDGE  
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