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

EDWARD LUNA.,
Plaintiff,
v.
DR. MOON, et al.,
Defendants.

Case No. 1:16-cv-00313-LJO-SAB (PC)
**ORDER DENYING AS MOOT
DEFENDANTS' MOTION FOR LEAVE TO
TAKE PLAINTIFF'S DEPOSITION BY
ORAL EXAMINATION**
(ECF No. 70)

Plaintiff Edward Luna is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983.

Currently before the Court is Defendants Ulit's, Moon's, and Wang's motion for leave to take Plaintiff's deposition by oral examination, filed on July 9, 2019. (ECF No. 70.) As the Court finds that a response from Plaintiff is unnecessary, the motion is deemed submitted. Local Rule 230(l).

In their motion, Defendants seek leave of court to depose Plaintiff on August 15, 2019, as required by Federal Rule of Civil Procedure 30(a)(2)(B). Defendants assert that, since Plaintiff's allegations that Defendants engaged in deliberate indifference with respect to the provision of medical care and Plaintiff's allegations are solely based on Plaintiff's own testimony relating to the pain he experienced while under Defendants' medical care, they need to depose Plaintiff in order to be able to adequately defend against Plaintiff's claims.

1 Defendants are correct that Federal Rule of Civil Procedure 30(a)(2)(B) requires a party to
2 obtain leave from the court in order to depose a person confined in prison, such as Plaintiff.
3 However, in the Court's March 30, 2018 discovery and scheduling order, the Court stated:
4 "Pursuant to Federal Rule of Civil Procedure 30(a)(2)(B), Defendant may depose Plaintiff and any
5 other witness confined in a prison upon condition that, at least fourteen (14) days before such a
6 deposition, Defendant serves all parties with the notice required by Federal Rule of Civil Procedure
7 30(b)(1)." (ECF No. 33, p. 2, lines 4-6.) Therefore, the Court has already granted Defendants leave
8 to depose Plaintiff on August 15, 2019, or any other date, so long as Defendants serve Plaintiff with
9 a deposition notice that complies with Federal Rule of Civil Procedure 30(b)(1) at least fourteen
10 days before the scheduled deposition. Accordingly, Defendants' motion for leave to take Plaintiff's
11 deposition by oral examination, (ECF No. 70), is HEREBY DENIED AS MOOT.

12 IT IS SO ORDERED.

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14 Dated: July 10, 2019


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UNITED STATES MAGISTRATE JUDGE