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10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE EASTERN DISTRICT OF CALIFORNIA
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13
14 **JAMES FERNANDEZ,**

15 Plaintiff,

16 v.

17 **NORTH KERN STATE PRISON, et al.,**

18 Defendants.
19

1:16-cv-01612-AWI-JLT

**SECOND STIPULATION RE DEFENSE
MEDICAL EXAMINATION OF
PLAINTIFF JAMES FERNANDEZ;
[PROPOSED] ORDER**

(Doc. 25)

20 Plaintiff James Fernandez and Defendants, by and through their respective counsel of
21 record, stipulate as follows under Rule 35 of the Federal Rules of Civil Procedure:

22 1. The parties previously stipulated to a Court order that Plaintiff submit himself for a
23 defense medical examination (“DME”) by Dr. Alan L. Shabo on June 15, 2017. (ECF Docket
24 No. 24.) Plaintiff failed to attend the Court-ordered DME.

25 2. The parties now agree that Plaintiff shall submit himself for a DME by Dr. Alan L.
26 Shabo at his medical offices, located at 10921 Wilshire Boulevard, Suite 1205, Los Angeles, CA
27 90024, on **Tuesday, August 8, 2017, from 2:00 p.m. to approximately 4:30 p.m.** The
28 following will likely be conducted by Dr. Shabo during the DME:

1 **Ophthalmologic Examination:** Including, but not exclusive to, visual acuity testing,
2 motility testing, external ocular examination, slit-lamp biomicroscopy, applanation tonometry and
3 dilated retina examination plus ancillary testing.

4 3. The parties agree that Plaintiff's failure to attend his DME on August 8, 2017, shall
5 subject Plaintiff, or his counsel, to sanctions that the Court deems just under the circumstances,
6 including but not exclusive to monetary and/or evidentiary sanctions.

7 4. The parties agree that no person other than Plaintiff and Dr. Shabo shall be present
8 during the August 8, 2017 DME. Neither party may record the DME through audio, video or
9 other electronic means.

10 5. Pursuant to Federal Rule of Civil Procedure Rule 35(b), the parties further agree that
11 a written report will be prepared by Dr. Shabo upon the completion of his examination and
12 analysis of the test results ("DME report"). A copy of the DME report will be provided to
13 Plaintiff's counsel as soon as it is completed. Within seven (7) days of delivery of the DME
14 report, Plaintiff agrees to provide Defendants with all medical reports of all examinations of the
15 same condition.

16 **IT IS SO STIPULATED**

17 Dated: July 20, 2017

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23 Dated: July 20, 2017

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ORDER

Based upon the stipulation of counsel , the Court ORDERS:

1. James Fernandez SHALL submit to a medical examination performed by Dr. Alan Shabo on August 8, 2017, from 2:00 p.m. to approximately 4:30 p.m., at the offices of Dr. Alan Shabo, located at located at 10921 Wilshire Boulevard, Suite 1205, Los Angeles, CA 90024, pursuant to Rule 35 of the Federal Rules of Civil Procedure and the terms of the above stipulation.

IT IS SO ORDERED.

Dated: July 21, 2017

/s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE