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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

TONY ASBERRY,
Plaintiff,
v.
C. RELEVANTE, *et al.*,
Defendants.

Case No. 1:16-cv-01741-NONE-JDP
ORDER DENYING PLAINTIFF’S MOTION
FOR COURT ORDER AS MOOT
ECF No. 178
ORDER GRANTING DEFENDANTS’
REQUEST FOR CLARIFICATION
ECF No. 188

Each party has filed a motion regarding the trial and trial date in this case. ECF Nos. 178, 188. Plaintiff requests that we direct the Clerk of Court to recognize the trial date. ECF No. 178. Defendants ask for clarification regarding whether trial can go forward without an assigned district judge and with restrictions on travel due to the outbreak of COVID-19.

On April 29, 2020, the court modified the trial schedule due to restrictions related to COVID-19. ECF No. 191. This order mooted plaintiff’s motion. ECF No. 178. We will grant defendants’ request and provide clarification on trial procedures. ECF No. 188.

As indicated in the standing order attached to the order unassigning the district judge in this case, ECF No. 183-1, the case will go forward without assigning a district judge while that position remains vacant. The trial will be held before a district judge, but the case will not be assigned to one at this time. However, as noted in the standing order, criminal trials will take

1 precedence over this civil trial. Thus, it is possible that the trial date may be reset again, either
2 because of the judicial emergency, the COVID-19 emergency, or both. The parties may wish to
3 consider whether they would consent to a bench trial, which may be easier to accommodate than a
4 jury trial. The parties are reminded that they have the option to consent to magistrate judge
5 jurisdiction under 28 U.S.C. § 636(c); consent would increase the likelihood of the trial
6 proceeding on the scheduled date. The parties are free to withhold consent without adverse
7 substantive consequences.

8 Accordingly,

- 9 1. Plaintiff's motion for court order, ECF No. 178, is denied as moot.
- 10 2. Defendant's request for clarification, ECF No. 188, is granted.

11 IT IS SO ORDERED.

12
13 Dated: May 1, 2020

14 
15 UNITED STATES MAGISTRATE JUDGE

16 No. 204.