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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

TONY R. LEWIS,  
Plaintiff,

v.

O. DELGADO, et al.,  
Defendants.

Case No. 1:17-cv-01064-DAD-EPG (PC)

ORDER RESETTING INITIAL  
SCHEDULING CONFERENCE GIVEN  
PLAINTIFF'S FAILURE TO APPEAR AT  
COURT SCHEDULED CONFERENCE

ORDER REQUIRING PLAINTIFF TO  
COMPLY WITH COURT'S ORDER  
REQUIRING SCHEDULING  
CONFERENCE STATEMENT AND  
INITIAL DISCLOSURES

ORDER REQUIRING DEFENDANTS TO  
SUPPLEMENT INITIAL DISCLOSURES

ORDER DIRECTING CLERK TO SEND  
PLAINTIFF A COPY OF ECF NO. 22, AND  
A COPY OF THIS ORDER TO SENIOR  
ASSISTANT ATTORNEY GENERAL  
MONICA ANDERSON, THE WARDEN OF  
PELICAN BAY STATE PRISON, AND THE  
LITIGATION COORDINATOR FOR  
PELICAN BAY STATE PRISON

Plaintiff, Tony R. Lewis, is a state prisoner proceeding *pro se* and *in forma pauperis* in this this civil rights action filed pursuant to 42 U.S.C. § 1983. He is currently confined at the Pelican Bay State Prison in Crescent City, California.

As described below, Plaintiff failed to appear at a telephonic initial scheduling conference despite notice to Plaintiff and the institution.

1 Given that Plaintiff had recently moved institutions, and that defense counsel notified  
2 the institution of this conference shortly before the conference, the Court will not consider  
3 sanctions for Plaintiff's failure to appear at this time. However, the Court reminds all  
4 concerned of Plaintiff's right to access the courts and the importance of making Plaintiff  
5 available for court appearances.

6 Accordingly, the Court will reset the initial scheduling conference for to **January 15,**  
7 **2019, at 9:30 AM,** in Courtroom 10 (EPG) before Magistrate Judge Erica P. Grosjean. To  
8 appear telephonically, each party is to use the following dial-in number and passcode: Dial-in  
9 number 1-888-251-2909; Passcode 1024453.

10 Additionally, the Court requires certain filings by the parties in advance of the  
11 conference, as set forth below.

12 **I. Background**

13 On August 29, 2018, the Court entered an order setting an initial scheduling conference  
14 in this case for December 10, 2018, at 3:00 p.m. (ECF No. 22.) The order stated:

15 An Initial Scheduling Conference will be held on **December 10,**  
16 **2018, at 3:00 PM.** Parties have leave to appear by phone. To  
17 join the conference, each party is directed to call the toll-free  
18 number **(888) 251-2909** and use **Access Code 1024453.**

19 . . . .

20 Plaintiff shall make arrangements with staff at his or her  
21 institution of confinement for his or her attendance at the  
22 mandatory telephonic Initial Scheduling Conference. Plaintiff's  
23 institution of confinement shall make Plaintiff available for the  
24 conference at the date and time indicated above. To the extent  
25 possible, defense counsel shall confirm with Plaintiff's institution  
26 of confinement that arrangements have been made for Plaintiff's  
27 attendance prior to the conference.

28 (*Id.* at 3 (emphasis in original).)

The Court attempted to hold the conference on the date and time ordered. The undersigned Judge and her court staff were present. Defense counsel, Mina Choi, appeared on behalf of Defendants. However, Plaintiff failed to appear. After waiting approximately ten minutes, the Court had to continue the conference due to Plaintiff's failure to appear.

1 Ms. Choi informed the Court that prior to the Conference, she contacted Plaintiff's  
2 institution of confinement, Pelican Bay, regarding Plaintiff's attendance at the Conference. She  
3 indicated that Plaintiff's institution had agreed to make Plaintiff available for the court  
4 conference. She did not know why Plaintiff failed to appear at the conference.

5 In addition, both Plaintiff and Defendants have failed to fully comply with the Court's  
6 order setting an initial scheduling conference, in which the Court also required the parties to  
7 make initial disclosures that include certain information and file scheduling conference  
8 statements. (ECF No. 22.)

9 Specifically, Plaintiff failed to file any scheduling conference statement, which was  
10 required at least two weeks in advance of the December 10, 2018, date set for the initial  
11 scheduling conference. (ECF No. 22 at 4.) In addition, Defendants claim that although Plaintiff  
12 served Defendants with a document titled "Plaintiff[']s First Request for Production of  
13 Documents and Initial Disclosure," this document does not provide a list of potential witnesses,  
14 individuals with discoverable information, or a list of documentary evidence regarding the  
15 event(s) at issue in the Complaint, all of which Plaintiff is required to disclose under the  
16 Court's order. (ECF No. 22; ECF No. 23 at 3.)

17 As to Defendants, although Defendants filed an initial scheduling conference statement,  
18 Defendants failed to include a response indicating "[w]hether documents were generated in  
19 connection with any investigation related to the event(s) at issue in the Complaint or the  
20 processing of Plaintiff's grievance(s), and if there were, whether those documents are subject to  
21 any claims of privilege." (ECF No. 22 at 4 (footnote omitted); *see* ECF No. 23.)

## 22 **II. Order**

23 Accordingly,

- 24 1. The telephonic Initial Scheduling Conference is continued to **January 15, 2019, at**  
25 **9:30 AM**, in Courtroom 10 (EPG) before Magistrate Judge Erica P. Grosjean. To  
26 appear telephonically, each party is to use the following dial-in number and  
27 passcode: Dial-in number 1-888-251-2909; Passcode 1024453.
- 28 2. Plaintiff shall make arrangements with staff at his institution of confinement for his

1 attendance at the conference.

- 2 3. Plaintiff's institution of confinement is hereby ordered to make Plaintiff available  
3 for the conference at the date and time indicated above.
- 4 4. Prior to the conference, defense counsel shall confirm with Plaintiff's institution of  
5 confinement that arrangements have been made for Plaintiff's attendance.
- 6 5. Plaintiff is directed to file a scheduling conference statement and provide complete  
7 initial disclosures as required by the Court's order setting initial scheduling  
8 conference (ECF No. 22), no later than **January 4, 2019**.
- 9 6. The Clerk of the Court shall serve Plaintiff with a copy of the Court's order, ECF  
10 No. 22, on Plaintiff at his current address.
- 11 7. Defendants are directed to file a supplement to their scheduling conference  
12 statement, no later than **January 4, 2018**, to provide a response indicating  
13 "[w]hether documents were generated in connection with any investigation related  
14 to the event(s) at issue in the Complaint or the processing of Plaintiff's grievance(s),  
15 and if there were, whether those documents are subject to any claims of privilege."  
16 (ECF No. 22 at 4.)
- 17 8. The Clerk of Court is respectfully directed to serve a copy of this order and ECF  
18 No. 22 on:
- 19 a. Supervising Deputy Attorney General Monica Anderson;
  - 20 b. The Warden of Pelican Bay State Prison; and
  - 21 c. The Litigation Coordinator for Pelican Bay State Prison.

22  
23 IT IS SO ORDERED.

24 Dated: **December 12, 2018**

25 /s/ Eric P. Gray  
26 UNITED STATES MAGISTRATE JUDGE  
27  
28