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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DAVID PHILLIPS-KERLEY,

Case No. 1:18-cv-00438-AWI-BAM

Plaintiff,

**ORDER SETTING FURTHER STATUS
CONFERENCE**

v.

CITY OF FRESNO FIRE DEPARTMENT,
et al.,

Defendants.

On December 14, 2020, the Court held a further telephonic status conference in this action. Plaintiff David Phillips-Kerley appeared by telephone *in propria persona*. Counsel Joseph Rubin appeared by telephone on behalf of Defendant City of Fresno. The purpose of the status conference was to address whether, following an extension of time, Plaintiff had secured new counsel or intended to represent himself *in propria persona*, whether the stay of discovery should be lifted, and whether the Scheduling Order in this case required modification.

At the conference, Plaintiff requested an additional three-month extension of time to secure counsel. Plaintiff explained that additional time was needed for potential counsel to review his case and to account for delays from COVID-19 and the impending holidays and. Defendant objected to this request given the lengthy delays in this action.

As discussed by the Court and parties, Plaintiff has known of his prior counsel's anticipated withdrawal from this action since at least July of 2020, and he has had approximately five (5) months to secure new counsel. (*See* Doc. No. 81.) As a result, an additional three-month extension of time

1 will not be granted. Nevertheless, based on delays occasioned, in part, from COVID-19, Plaintiff will
2 be granted one final extension of time to secure new counsel or to otherwise determine how he would
3 like to proceed in this action. Discovery shall remain stayed and any remedies available to Defendant
4 for Plaintiff's failure to provide timely initial disclosures are preserved.

5 Accordingly, the Court sets a FURTHER TELEPHONIC STATUS CONFERENCE in this
6 matter for **February 2, 2021, at 9:30 AM in Courtroom 8 (BAM) before Magistrate Judge**
7 **Barbara A. McAuliffe**. The purpose of the conference will be to address whether Plaintiff has
8 secured new counsel or intends to represent himself *in propria persona*, whether the stay of discovery
9 should be lifted, and whether the Scheduling Order in this case requires modification. The parties shall
10 appear at the conference by telephone with each party using the following dial-in number and access
11 code: **dial-in number 1-877-411-9748; access code 3219139**. If Plaintiff secures new counsel and a
12 notice of substitution of counsel is filed before the date set for the conference, then the conference will
13 be advanced.

14 Plaintiff is cautioned that the failure to appear at the conference may result in the imposition of
15 sanctions, including terminating sanctions. A copy of this Order will be served on Plaintiff at his last
16 known address.

17 IT IS SO ORDERED.

18 Dated: **December 14, 2020**

/s/ Barbara A. McAuliffe
19 UNITED STATES MAGISTRATE JUDGE