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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ETUATE SEKONA,
Plaintiff,
v.
MAGGIE FRANCIS,
Defendant.

No. 1:19-cv-00529-KES-HBK
ORDER DENYING PLAINTIFF’S MOTION
FOR SANCTIONS AND NOTING
PLAINTIFF’S AGREEMENT WITH
DEFENDANT’S PROPOSED JURY
INSTRUCTIONS
Docs. 158, 159.

Plaintiff Etuate Sekona is a state prisoner proceeding pro se and in forma pauperis in this civil rights action brought under 42 U.S.C. § 1983 against defendant Francis. This action is set for trial on September 10, 2024, on Sekona’s claim against Francis for deliberate indifference to Sekona’s serious medical needs in violation of the Eighth Amendment. Sekona moves for sanctions regarding defendant’s alleged failure to provide her trial exhibits by the deadline set in the court’s amended final pretrial order. Doc. 158. Sekona also filed a one-page document, which he captioned as a “motion,” noting his agreement with defendant’s proposed jury instructions. Doc. 159.

I. ANALYSIS

A. Sekona’s motion for sanctions (Doc. 158)

Construing Sekona motion for sanctions liberally, he appears to argue that defendant did

1 not timely produce her trial exhibits. Doc. 158. Specifically, Sekona’s motion, which he served
2 on August 26, 2024, and which was filed on August 28, 2024, alleges that he did not have
3 defendant’s “trial exhibits” and had not received defendant’s “pretrial status reports” by the
4 deadline date. *Id.* at 1. He notes that the August 23, 2024, date for objections to exhibits had also
5 passed. *Id.* at 1. Sekona further asserts that he sent his “pretrial statement evidence” to defendant
6 on August 8, 2024. *Id.* The court construes Sekona’s allegations regarding “pretrial status
7 reports” and “pretrial statement evidence” to refer to the parties’ trial exhibits. The amended final
8 pretrial order required the parties to exchange trial exhibits by August 9, 2024, and set a deadline
9 of August 23, 2024 for the filing of objections to the other party’s exhibits. Doc. 127 at *Id.*

10 Defendant has submitted a proof of service with her exhibit list indicating that she served
11 her trial exhibits on Sekona on July 11, 2023, over one year ago. Doc. 161. The court’s previous
12 pretrial order had set July 11, 2023, as the date for the parties to exchange trial exhibits. In his
13 declaration filed on August 19, 2024, defense counsel confirms that defendant served Sekona
14 with her exhibits in July 2023, although he indicates there is some confusion as to the exact date
15 in July 2023 when they were served, notwithstanding the proof of service dated July 11, 2023.
16 *See* Doc. 148 at 2. Defense counsel also served a second copy set of defendant’s exhibits on
17 Sekona, on August 28, 2024. Doc. 160.

18 Even with the possible discrepancy as to the exact date in July 2023 when defendant first
19 served her exhibits on Sekona, the record reflects that Sekona has been served twice with
20 defendant’s trial exhibits: first in July 2023 and then on August 28, 2024. Sekona’s motion for
21 sanctions (Doc. 158) is therefore denied based on the record before the court. However, Sekona
22 indicates that, based on the amended final pretrial order, he expected defendant to serve a new set
23 of her trial exhibits by August 9, 2024. Defendant did not do so until August 28, 2024, and
24 Sekona argues that he was unable to file his objections by August 23, 2024. Given these
25 circumstances, if Sekona has objections to defendant’s trial exhibits, he may raise such objections
26 at trial.

27 B. Sekona’s filing stating his agreement with proposed jury instructions (Doc. 159)

28 Although Sekona’s filing at Doc. 159 is captioned as a “motion,” it does not seek any

1 relief by way of motion. Rather, in this filing Sekona informs the court and defendant that he
2 agrees with defendant's proposed jury instructions. *See* Doc. 159. In the amended final pretrial
3 order, the court directed the parties to meet and confer regarding jury instructions, but Sekona
4 was not required to file proposed jury instructions himself. *See* Doc. 127. Sekona was instructed
5 to notify the court if he had any objections to defendant's proposed jury instructions. *Id.* at 15.
6 The court construes Sekona's filing at Doc. 159 as his notice of agreement with defendant's
7 proposed jury instructions.

8 **II. CONCLUSION AND ORDER**

9 Accordingly, IT IS HEREBY ORDERED:

- 10 1. Plaintiff's motion for contempt sanctions (Doc. 158) is DENIED, but plaintiff may
11 raise at trial any objections he may have to defendant's trial exhibits; and
12 2. Plaintiff's motion for acceptance of jury instructions (Doc. 159) is construed as
13 plaintiff's notice of agreement with defendant's proposed jury instructions.

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16 IT IS SO ORDERED.

17 Dated: August 30, 2024

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20 UNITED STATES DISTRICT JUDGE