1 2 3 4 5 UNITED STATES DISTRICT COURT 6 EASTERN DISTRICT OF CALIFORNIA 7 8 9 ESMELING L. BAHENA, Case No. 1:22-cv-01585-BAM (PC) 10 Plaintiff, ORDER DIRECTING DEFENDANT TO FILE RESPONSE TO PLAINTIFF'S MOTION TO 11 v. MODIFY THE DISCOVERY AND **SCHEDULING ORDER** 12 LEMON, et al., (ECF No. 76) 13 Defendants. **FOURTEEN (14) DAY DEADLINE** 14 ORDER DIRECTING PLAINTIFF TO FILE 15 NOTICE OF WITHDRAWAL OF MOTION TO COMPEL 16 (ECF No. 70) 17 **SEVEN (7) DAY DEADLINE** 18 19 Plaintiff Esmeling L. Bahena ("Plaintiff") is a state prisoner proceeding through counsel 20 and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. This action 21 proceeds on Plaintiff's second amended complaint against Defendant Mendoza ("Defendant") for 22 excessive force and deliberate indifference to medical care in violation of the Eighth Amendment. 23 All parties have consented to Magistrate Judge jurisdiction. (ECF No. 40.) 24 On September 3, 2024, Plaintiff filed a motion to compel. (ECF No. 70.) The Court 25 stayed briefing on the motion to compel and directed the parties to meet and confer and file a 26 Joint Statement. (ECF No. 71.) Following an appearance by Plaintiff's counsel and an extension 27 of time, the parties filed a joint statement on November 8, 2024. (ECF No. 75.) According to the 28 1

1	joint statement, the parties determined the following: (1) Defendant will produce copies of
2	Plaintiff's medical records; (2) Plaintiff will withdraw the pending motion to compel, (ECF No.
3	70); and (3) Plaintiff will be filing an opposed motion to conduct discovery now that his counsel
4	has entered an appearance. (Id.) On November 15, 2024, Plaintiff filed a motion to modify the
5	discovery and scheduling order. (ECF No. 76.) As of the date of this order, no further filings
6	have been received from either party.
7	Pursuant to the joint statement filed by the parties, the Court finds it appropriate to direct
8	Plaintiff to file a notice of withdrawal of the pending motion to compel and to direct Defendant to
9	file an opposition (or a statement of non-opposition) to Plaintiff's motion to modify the discovery
10	and scheduling order.
11	The parties are further advised that although Plaintiff is now proceeding through counsel,
12	briefing on future motions shall continue to follow the deadlines and procedures set forth in Local
13	Rule 230(1), as is the Court's usual practice.
14	Accordingly, it is HEREBY ORDERED as follows:
15	1. Within seven (7) days from the date of service of this order, Plaintiff SHALL FILE a
16	notice of withdrawal of the pending motion to compel, (ECF No. 70);
17	2. Within fourteen (14) days from the date of service of this order, Defendant SHALL FILE
18	an opposition (or a statement of non-opposition) to Plaintiff's motion to modify the
19	discovery and scheduling order, (ECF No. 76); and
20	3. Plaintiff's reply brief, if any, in support of the motion to modify the discovery and
21	scheduling order, shall be due within fourteen (14) days from the date of filing of
22	Defendant's response.
23	ATT NO GO ODD FIDED
24	IT IS SO ORDERED.
25	Dated: January 6, 2025 /s/ Barbara A. McAuliffe _

UNITED STATES MAGISTRATE JUDGE