

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MICHAEL J. BRODHEIM,

Plaintiff,

No. 2:02-cv-0573 FCD KJN P

vs.

MICHAEL CRY, et al.,

Defendants.

ORDER

_____ /

Plaintiff is a state prisoner at the California Medical Facility (“CMF”) in Vacaville, California, proceeding with counsel in this civil rights action filed pursuant to 42 U.S.C. § 1983. The case proceeds on plaintiff’s Third Amended Complaint (“TAC”) and Supplemental Pleading (“SP”) filed September 22, 2004 (combined in Dkt. No. 54), and plaintiff’s Second Supplemental Pleading (“SSP”) filed October 28, 2010 (Dkt. No. 219).

On December 23, 2010, the court heard defendants’ motion to dismiss. Attorney Joseph Elford appeared telephonically on behalf of plaintiff; defendants were represented by Deputy Attorney General Kelli Hammond.

For the reasons stated at the hearing, IT IS HEREBY ORDERED that:

1. Plaintiff shall, on or before February 1, 2011, file and serve a Fourth Amended Complaint, consistent with the parameters set forth by the court on the record at the hearing.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

2. Defendants shall, within fourteen days after the filing date of plaintiff's Fourth Amended Complaint, file and serve an Answer, OR, within thirty days after the filing date of plaintiff's Fourth Amended Complaint, file and serve a Motion to Dismiss.


3. Upon receipt of defendants' responsive pleadings, the court will schedule a telephonic status conference.

4. The discovery and motion deadlines previously set by this court (see Dkt. No. 217) are vacated; the parties may continue to conduct discovery until further order of this court.

5. Defendants' motion to dismiss filed November 15, 2010 (Dkt. No. 221) is denied without prejudice.

SO ORDERED.

DATED: December 23, 2010


KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE