

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

VERNON WAYNE McNEAL,

Plaintiff,

No. 2:02-cv-2524 TLN JFM P

vs.

FLEMING, et al.,

Defendants.

ORDER

_____ /

Plaintiff is a state prisoner proceeding pro se with a civil rights action pursuant to 42 U.S.C. § 1983. This matter is set for trial on January 13, 2014 in the district court following remand from the United States Court of Appeals for the Ninth Circuit for a new trial on plaintiff's Eighth Amendment claim of excessive force. On August 28, 2013, plaintiff filed a motion for a six month extension of the trial date. After review of the record, and good cause appearing, the trial date will be vacated and the court will set a mandatory settlement conference in this case. Pursuant to Local Rule 270(b), the parties will be directed to inform the court in writing as to whether they wish to proceed with the settlement conference before the undersigned magistrate judge and waive any disqualification stemming therefrom or if they prefer instead to be referred to another Magistrate Judge of this Court for the settlement conference.

////

1 In accordance with the above, IT IS HEREBY ORDERED that:

2 1. The trial set for January 13, 2014 before the Honorable Troy L. Nunley is
3 vacated;

4 2. This matter will be set for settlement conference by subsequent order of court.
5 Within fourteen days from the date of this order, each party shall inform the court in writing as to
6 whether they wish to proceed with the settlement conference before the undersigned magistrate
7 judge and waive any disqualification or if they prefer instead to be referred to another Magistrate
8 Judge of this Court for the settlement conference. If the parties wish to proceed before the
9 undersigned magistrate judge, each party shall return to the court the consent form for settlement
10 conferences provided with this order. If the parties do not wish the undersigned magistrate judge
11 to preside at the settlement conference, each party shall file a declaration stating he wishes to be
12 referred to another Magistrate Judge of this court for the settlement conference;

13 3. The Clerk of the Court is directed to send each party the consent form for
14 settlement conferences; and

15 4. Plaintiff's August 28, 2013 motion for a six month continuance of the trial date
16 (ECF No. 253) is denied as moot.

17 Dated: September 6, 2013

18 
19 CAROLYN K. DELANEY
20 UNITED STATES MAGISTRATE JUDGE

21
22
23 12
24 mcne2524.set