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

10 MICHAEL HUFTILE,

11 Plaintiff,

No. CIV S-05-0171 GEB KJM P

12 vs.

13 SACRAMENTO COUNTY BOARD OF
14 SUPERVISORS,

15 Defendants.

ORDER

16 _____/

17 On October 10, 2008, based on a stipulation of the parties, the court ordered that
18 all pretrial motions be filed no later than December 19, 2008. After the close of business on
19 December 19, defendants filed a motion for summary judgment and set the hearing before the
20 district court judge assigned to this case, contrary to the provisions of Local Rule 78-230. On
21 December 22, 2008, the district judge vacated the hearing on the motion. Defendants then filed a
22 motion for leave to re-file their motion for summary judgment, proposing a shortened hearing
23 schedule while maintaining other scheduled dates. Defendants contend that plaintiff will not be
24 prejudiced by the court's granting of their motion. Plaintiff opposes the motion, arguing that he
25 would be prejudiced by having to respond to the defendants' voluminous motion during the same
26 time that pretrial deadlines must be met and pretrial preparation accomplished. Plaintiff's

1 counsel's declaration indicates the prejudice is compounded by the logistical challenges
2 associated with communicating with his client, who is confined at Coalinga State Hospital.

3 Defendants' mere assertion does not overcome plaintiff's showing of prejudice.
4 Therefore, their motion will be denied.

5 Accordingly, IT IS HEREBY ORDERED that

6 1. Defendants' "request for leave to re-file motion for summary judgment . . ."
7 (#76) is denied; and

8 2. The Clerk of the Court is directed to administratively terminate defendants'
9 motion for summary judgment (#74).

10 DATED: January 13, 2009.

11 
12 U.S. MAGISTRATE JUDGE
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