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

RICHARD ERNEST ANAYA,

Plaintiff

No. CIV S-07-0029 GGH P

vs.

ROSEANNE CAMPBELL, et al.,

Defendants.

ORDER

_____/

Plaintiff is a prison inmate proceeding pro se and in forma pauperis with a civil rights action. Trial is scheduled for this case on October 25, 2010.

On October 15, 2010, defendants filed a motion in limine (Doc. 267) concerning plaintiff's medical records. Defendants seek to limit the use of the medical records as they may not be authenticated, their prejudicial impact outweighs their probative value and they are hearsay.

To the extent that the records are not authenticated, defendants stated they will be calling as a witness the custodian of records and medical records. As plaintiff is permitted to call as a witness defendants' witnesses, the medical records can be properly authenticated by the custodians of records listed. With respect to defendants' hearsay argument, there is a well established exception to the hearsay rule regarding medical diagnosis and treatment. There may

1 be other objections to use of the medical records, but such should be adjudicated on an exhibit-
2 by-exhibit basis. Moreover, until plaintiff uses the medical records and it is clear for what
3 purpose he uses them, the court cannot determine the outcome of other objections or if their
4 prejudicial impact outweighs their probative value.

5 Plaintiff has filed a motion for his legal property to be transported for the trial,
6 Doc. 264. By now, the requirement that plaintiff be given his legal records before trial is well
7 established, and the court will not presume that CDCR needs to be ordered to perform its
8 required logistical details. Plaintiff should follow the appropriate procedures of his institution to
9 bring his legal materials.

10 According, IT IS HEREBY ORDERED that:

11 1. Defendants' motion in limine (Doc. 267) is denied with respect to
12 authentication of medical records and denied without prejudice to individual objection;

13 2. Plaintiff's motion regarding legal property (Doc. 264) is vacated.

14 DATED: October 18, 2010

15 /s/ Gregory G. Hollows

16 _____
17 GREGORY G. HOLLOWES
18 UNITED STATES MAGISTRATE JUDGE

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