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

KYLE AVERY, No. CIV S-08-2605-CMK-P
Plaintiff,
vs. ORDER
JAMES WALKER, et al.,
Defendants.

_____ /

Plaintiff, a state prisoner proceeding pro se, brings this civil rights action pursuant to 42 U.S.C. § 1983. An answer to plaintiff’s complaint has been filed and, therefore, this case is now at issue. Pursuant to Federal Rule of Civil Procedure 16(b), the court will, by this order, set a schedule for this litigation.

1. Discovery requests shall be served by the party seeking the discovery on all parties to the action. Discovery requests shall not be filed with the court except when required by Eastern District of California Local Rules 30-250(a), 33-250(c), 34-250(c), and/or 36-250(c). Improperly filed discovery requests will be disregarded;

2. Responses to written discovery requests shall be due 45 days after the request is served;

3. Pursuant to Federal Rule of Civil Procedure 30(a)(2)(B), defendant(s) may depose plaintiff and any other incarcerated witness upon condition that, at least 14 days before

1 such a deposition, all parties are served with the notice required by Federal Rule of Civil
2 Procedure 30(b)(1);

3 4. If disputes arise about the parties' obligations to respond to requests for
4 discovery, the parties shall comply with all pertinent rules, including Federal Rules of Civil
5 Procedure 5, 7, 11, 26, and 37 and Eastern District of California Local Rules 5-134, 5-135, 6-
6 136, 7-130, 7-131, 11-110, 43-142, and 78-230(m); unless otherwise ordered, Local Rule 37-251
7 shall not apply. Filing a discovery motion that does not comply with all applicable rules may
8 result in imposition of sanctions, including but not limited to denial of the motion;

9 5. The parties may conduct discovery until November 20, 2009. All
10 requests for discovery pursuant to Fed. R. Civ. P. 30, 31, 33, 34, 36, and 45 shall be served by
11 this discovery cut-off date. Any motions necessary to compel discovery shall be filed within 60
12 from this cut-off date.

13 6. All dispositive motions shall be filed within 90 days after the discovery
14 cut-off date specified above;

15 7. Unless otherwise ordered, all motions shall be briefed pursuant to Local
16 Rule 78-230(m), and failure to oppose such a motion in a timely manner may be deemed a
17 waiver of opposition to the motion; and

18 8. At a later stage in the proceedings, the court will issue a final scheduling
19 order.

20 IT IS SO ORDERED.

21
22 DATED: July 20, 2009

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25 **CRAIG M. KELLISON**
26 UNITED STATES MAGISTRATE JUDGE