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

MALIK JONES

Plaintiff,

No. 2:08-cv-2607 MCE CKD P

vs.

J. McGUIRE, et al.,

Defendants.

ORDER

_____ /

Plaintiff, a state prisoner, proceeds pro se with a civil rights complaint brought pursuant to 42 U.S.C. § 1983. Plaintiff's sole remaining claim is that defendant Lipton was deliberately indifferent to his serious medical need on September 13, 2007 in violation of the Eighth Amendment.

Pursuant to the court's order of November 27, 2012, plaintiff's pretrial statement was due on December 28, 2012. On that date, plaintiff's motion for order to subpoena witnesses (Dkt. No. 85) was received in which he requests a 30 day extension of time to file a pretrial statement. Good cause shown, plaintiff's request for an extension of time will be granted. Plaintiff must file a pretrial statement within 30 days of the date of this order. Plaintiff must list his desired trial witnesses in his pretrial statement in accordance with Local Rule 281. See E.D. Cal. L.R. 281. The court notes that defendant opposes plaintiff's motion for order to subpoena

1 witnesses, based on the fact that plaintiff failed to disclose the names of any witnesses in
2 response to defendant's interrogatories propounded upon plaintiff. (Dkt. No. 86.) Accordingly,
3 plaintiff must now demonstrate that his failure to disclose was substantially justified under the
4 circumstances or that the delay was harmless. See Fed. R. Civ. P. 37(c)(1); Yeti By Molly Ltd. v.
5 Deckers Outdoor Corp., 259 F.3d 1101, 1106 (9th Cir. 2001).

6 For the foregoing reasons, IT IS HEREBY ORDERED THAT:

7 1. Plaintiff's request for an extension of time to file a pretrial statement is
8 GRANTED; plaintiff shall file a pretrial statement within 30 days of the date of this order.
9 Plaintiff is once again cautioned that if he fails to file a pretrial order, it will be recommended
10 that this case be dismissed with prejudice for failure to prosecute and failure to comply with the
11 court's orders.

12 2. Defendant's pretrial statement is due within 14 days after service of plaintiff's
13 pretrial statement. See Fed. R. Civ. P. 41(b); E.D. Cal. L.R. 110.

14 Dated: January 24, 2013

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16 CAROLYN K. DELANEY
17 UNITED STATES MAGISTRATE JUDGE

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