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

MARQUETTE HANDY,

Plaintiff,

No. CIV S-08-2765 LKK DAD P

vs.

DEBRINA WILLIAMS, et al.,

Defendants.

ORDER

_____ /

On November 16, 2009, defendant Debrina Williams filed a motion seeking the imposition of sanctions or in the alternative to compel the deposition of plaintiff Handy. In support of this motion, defendant provides the following information. On October 8, 2009, defendant served a notice of deposition for plaintiff's deposition to be taken on November 10, 2009, at 10:00 a.m. at the California Medical Facility. Plaintiff made no objections. On November 10, 2009, counsel for defendant Williams appeared at the California Medical Facility for the scheduled deposition. Plaintiff refused to submit to the deposition, arguing that he did not want Mr. B.C. Williams, the Litigation Coordinator, to be present during the deposition. Defense counsel was unable to secure a different custodial officer to be present and, as a result, plaintiff's deposition was not taken.

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1 In the court's April 22, 2009 discovery and scheduling order, plaintiff was
2 informed that "defendants may depose plaintiff and any other witness confined in prison upon
3 condition that, at least fourteen days before such a deposition, defendants serve all parties with
4 notice required by Fed. R. Civ. P. 30(b)(1)[.]" (Order, filed 4/22/09, at 5.) Defendant Williams
5 complied with the notice requirement. Therefore, the court will order plaintiff to submit to the
6 taking of his deposition on November 30, 2009, as requested by defendant. If plaintiff fails to
7 comply with this order, sanctions may be imposed, including the dismissal of this action.

8 Accordingly, IT IS HEREBY ORDERED that:

9 1. Defendant Debrina Williams' November 16, 2009 motion for sanctions or in
10 the alternative to compel deposition (Doc. No. 30) is granted as to defendant's motion to compel;

11 2. Plaintiff shall submit to the taking of his deposition on November 30, 2009 at
12 9:30 a.m. at the California Medical Facility and a custodial officer or litigation coordinator may
13 be present during the deposition; and

14 3. Plaintiff's failure to comply with this order may result in the imposition of
15 sanctions, including the dismissal of this action.

16 DATED: November 20, 2009.

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19 _____
20 DALE A. DROZD
21 UNITED STATES MAGISTRATE JUDGE

19 DAD:4
20 hand2765.depo