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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

BRADLEY VAN DYKE,

Plaintiff,

v.

D.K. SISTO, et al.,

Defendants.

NO. CV-08-3120-JLQ

**SCHEDULING ORDER
DISCOVERY ORDER**

Unenumerated Rule 12(b) Motion Deadline: 4/26/10
Deadline to Amend Pleadings: 5/26/10
Discovery Cut-Off Date: 8/24/10
Dispositive Motion Deadline: 9/24/10

On February 11, 2010, Defendants Fuizzotti, Gums, and Sisto answered the Complaint filed on December 23, 2008. Pursuant to Federal Rules of Civil Procedure 1, 16, and 26-36, discovery shall proceed as follows:

1. Discovery requests shall be served by the parties pursuant to Federal Rule of Civil Procedure 5 and Local Rule 5-135, and shall only be filed when required by Local Rules 33-250(c), 34-250(c), and 36-250(c);
2. Responses to written discovery requests shall be due forty-five (45) days after the request is first served;
3. To ensure that the responding party has forty-five (45) days after the request is first served to respond, discovery requests must be served at least forty-five (45) days before the discovery deadline;

1 4. Pursuant to Federal Rule of Civil Procedure 30(a), defendants may depose plaintiff
2 and any other witness confined in a prison upon condition that, at least fourteen (14) days
3 before such a deposition, defendants serve all parties with the notice required by Federal
4 Rule of Civil Procedure 30(b)(1); and

5 5. If disputes arise about the parties' obligations to respond to requests for discovery,
6 the parties shall comply with all pertinent rules including Rules 5, 7, 11, 26, and 37 of the
7 Federal Rules of Civil Procedure and Rules 11-110, 7-130, 7-131, 5-133, 5-135, 6-136, 43-
8 142, and 78-230(m) of the Local Rules of Practice for the United States District Court,
9 Eastern District of California. Unless otherwise ordered, Local Rule 37-251 shall not apply,
10 and the requirement set forth in Federal Rules of Civil Procedure 26 and 37 that a party
11 seeking relief from the court certify that he or she has in good faith conferred or attempted
12 to confer with the other party or person in an effort to resolve the dispute prior to seeking
13 court action shall not apply. Voluntary compliance with this provision of Rules 26 and 37
14 is encouraged, however. A discovery motion that does not comply with all applicable rules
15 will be stricken and may result in imposition of sanctions.

16 Further:

17 6. The parties are advised that the deadline for filing motions to dismiss for failure to
18 exhaust the administrative remedies pursuant to the unenumerated portion of Federal Rule
19 of Civil Procedure 12(b) shall be **April 26, 2010**.

20 7. The deadline for amending the pleadings shall be **May 26, 2010**.

21 8. The parties are advised that the deadline for the completion of all discovery,
22 including filing motions to compel, shall be **August 24, 2010**;

23 9. The deadline for filing pre-trial dispositive motions shall be **September 24, 2010**;¹
24

25 ¹ The pre-trial dispositive motion deadline does not apply to the filing of
26 unenumerated Rule 12(b) motions to dismiss for failure to exhaust. Unenumerated Rule

