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

ARTHUR CARR,

Plaintiff,

No. 2:09-cv-0826 GEB KJN P

vs.

H. HER, et al.,

Defendants.

ORDER

_____ /

On November 20, 2012, the undersigned issued the pretrial order. On February 25, 2013, plaintiff filed an untimely motion for modification of the pretrial order, and a motion for reconsideration of the pretrial order, claiming that he inadvertently omitted exhibits from the exhibit list contained in the pretrial order. Defendants have not filed an opposition.

At the January 14, 2013 trial confirmation hearing, jury trial was continued to July 9, 2013.

Plaintiff claims he wishes to amend the exhibit list exchanged at the trial confirmation hearing, for a total of 36 exhibits. (Dkt. No. 212 at 3.) However, if the court added the items numbered 1 through 14 listed in the motion for modification, to the 19 exhibits listed in the pretrial order, the number of exhibits does not total 36. The motion is similarly confusing because plaintiff included a separate list of exhibits after his conclusion, marked "Notes," which

1 lists eight exhibits, some of which are included in the pretrial order, and some of which are not.
2 (Dkt. No. 212 at 7.) It appears that plaintiff wishes to add his exhibits numbered 37 - 43, but
3 adding seven exhibits to the 19 listed, also does not total 36. Before the court can determine
4 whether plaintiff should be allowed to amend his exhibit list, the court must have one, complete
5 exhibit list to present to the district court, which the court and the parties will use at trial. This
6 list must be a simple description of the item, without explanation of how it was previously filed
7 with the court, or why plaintiff now seeks to have it admitted. Plaintiff may, if he wishes,
8 include a parenthetical number referencing plaintiff's prior numbering sequence, for example,
9 "(PX 23)."¹ But plaintiff should retain the numbering sequence set forth in the pretrial order.

10 To assist plaintiff in this regard, the undersigned appended the exhibit list and list
11 of discovery documents from the pretrial order to this order. Plaintiff should simply cross out
12 any items he does not wish to admit (if any), and insert items he now wishes to add. Plaintiff
13 should follow the identification pattern used by the court.

14 Plaintiff does not need to file copies of the exhibits. No further argument or
15 explanation is required. Once plaintiff files the complete lists, defendants are granted seven days
16 in which to file an opposition, if any, to plaintiff's motion to amend his exhibit list.

17 Finally, on February 26, 2013, plaintiff filed a request for clarification as to
18 whether he is allowed to subpoena both Michael Soares and Dr. A. Traquina as witnesses for
19 trial. As noted in the pretrial order, both Michael Soares and Dr. Traquina are listed as witnesses
20 for plaintiff. Therefore, plaintiff is entitled to subpoena both witnesses, which is why the court
21 clerk issued plaintiff two subpoena forms.

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26 ¹ The court has added this parenthetical to a few of the exhibits in the list below.

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

ARTHUR CARR,

Plaintiff,

No. 2:09-cv-0826 GEB KJN P

vs.

H. HER, et al.,

Defendants.

NOTICE OF SUBMISSION

OF DOCUMENTS

_____/

Plaintiff hereby submits the following documents in compliance with the court's
order filed _____.

Proposed Amended Exhibit List

Proposed Amended List of Discovery Documents

DATED:

Plaintiff

1 Proposed Amended Exhibits, Schedules and Summaries

2 Plaintiff anticipates offering:

- 3 1. Transcript from the January 26, 2009 preliminary hearing in People v. Carroll
4 and Sprague, Case Nos. FCR 256079 & FCR 256080 (Solano County);²
- 5 2. Twenty-three color photographs taken on March 10, 2008, of the scene of the
6 incident, as well as of the injuries sustained during the incident;³
- 7 3. January 20, 2010 Mental Health Interdisciplinary Progress Notes/CDCR-7230
8 MH;
- 9 4. August 25, 2009 Interdisciplinary Progress Notes/CDCR-7230 MH;
- 10 5. July 29, 2009 Interdisciplinary Progress Notes/CDCR-7230 MH;
- 11 6. May 4, 9 and 21, 2009 Interdisciplinary Progress Notes/CDCR-7230 MH and
12 Group Therapy Note;
- 13 7. April 15, 2009 Interdisciplinary Progress Notes/CDCR-7230 MH;
- 14 8. March 2, 2009 Interdisciplinary Progress Notes/CDCR-7230 MH;
- 15 9. February 18, 2009 Interdisciplinary Progress Notes/CDCR-7230 MH;
- 16 10. May 15, 2009 Suicide Risk Assessment CDCR-7447;
- 17 11. July 21, 2008 - July 25, 2008 (reverse page) and July 26, 2008 - July 27, 2008
18 Mental Health Interdisciplinary Progress Notes/CDC form MH 3; (PX 11)
- 19 12. Mental Health Treatment Plan CDCR-7388; (PX 37) (dated 5/22/09)
- 20 13. December 13, 2009 Mental Health Treatment Plan CDCR-7388;
- 21 14. March 21, 2008 Suicide Risk Assessment Checklist/CDCR 7447;
- 22 15. March 21, 2008 Interdisciplinary Progress Notes / CDC-7230;⁴
- 23 16. CDC-115 Rules Violation Report, Log number S2-08-03-0719, dated March

24 _____
25 ² On June 6, 2011, defendants lodged a copy of the preliminary hearing transcript. (Dkt.
No. 122.)

26 ³ On August 7, 2012, plaintiff filed 8-1/2 x 11" color photocopies of the 23 photographs.

⁴ Plaintiff provided copies of exhibits 3 - 15. (Dkt. No. 174 at 4-15.)

1 10, 2008; (PX 16) (Exhibit C - Dkt. No. 212 at 15.)

2 17. CDC-115 Rules Violation Report, Log number S2-08-03-0720 dated March
3 10, 2008;⁵ (PX 17) (Exhibit D - Dkt. No. 212 at 23.)

4 18. Crime/Incident Report Part C2 - Review Notice – CDCR 837-C2 form (Rev
5 10/06);

6 19. Crime/Incident Report Part C1-Supplement - CDCR 837-C1 (Rev. 10/06).⁶

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25 ⁵ Plaintiff identified exhibits 16 and 17, and provided copies of these exhibits in his
26 November 7, 2012 amendment. (Dkt. No. 192.)

⁶ Plaintiff identified exhibits 18 and 19 in his August 1, 2012 pretrial statement. (Dkt. No. 161 at 31.)

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1 Proposed Amended Discovery Documents

2 Plaintiff anticipates the use of the following:

- 3 1. Plaintiff's First Request for Admissions, dated March 15, 2010;
- 4 2. Defendant Solorzano's Responses to Plaintiff's Request for Admissions, Set
5 One, dated April 27, 2010; (PX 23) (Exhibit B - Dkt. No. 212 at 13)
- 6 3. Defendant Her's Responses to plaintiff's Request for Admissions, Set One,
7 dated April 27, 2010; (PX 24); (Exhibit A - Dkt. No. 212 at 9)
- 8 4. Plaintiff's First Request for Production of Documents, dated March 8, 2010;
- 9 5. Defendants' Response to Plaintiff's First Request for Production of
10 Documents, dated April 21, 2010;
- 11 6. Plaintiff's First Set of Interrogatories to defendants, dated March 5, 2010;
- 12 7. Defendant Solorzano's Response to plaintiff's Request for Interrogatories, Set
13 One, dated April 27, 2010;
- 14 8. Defendant Her's Response to plaintiff's Request for Interrogatories, Set One,
15 dated April 27, 2010;
- 16 9. Plaintiff's Supplemental Request for Interrogatories dated August 31, 2010;
- 17 10. Responses to plaintiff's August 31, 2010 Supplemental Request for
18 Interrogatories;⁷
- 19 11. Plaintiff's Second Request for Admissions to defendant Solorzano dated
20 November 4, 2010, page two;
- 21 12. Defendant Solorzano's Responses to plaintiff's Request for Admissions, Set
22 Two, specifically his responses to requests numbers 1 and 3;
- 23 13. Plaintiff's May 18, 2010 deposition transcript; and
- 24 14. Defendant Her's Responses to plaintiff's Request for Admissions, Set Two,
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⁷ Documents numbered 1 - 10 were identified in plaintiff's November 7, 2012 amendment. (Dkt. No. 192.)

1 specifically response number 6.⁸

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⁸ Documents numbered 11 - 14 were identified in plaintiff's August 1, 2012, and August 30, 2012 pretrial statements. (Dkt. Nos. 161 & 171.)