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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MICHAEL BAKER,
Plaintiff,
v.
PEREZ, et al.,
Defendants.

No. 2: 09-cv-2757 MCE KJN P

ORDER

Plaintiff Michael Baker (“Plaintiff”) is a state prisoner, proceeding without counsel, with a civil rights action pursuant to 42 U.S.C. § 1983. This action is set for jury trial on January 5, 2015. On April 16, 2014, the Magistrate Judge issued a pretrial order (ECF No. 163). On May 5, 2015, Plaintiff filed a motion for reconsideration of the pretrial order (ECF No. 167). The Court construes Plaintiff’s request for reconsideration as objections to the pretrial order. Plaintiff’s objections are addressed herein.

Objection No. 1

Under the heading “Disputed Evidentiary Issues,” the pretrial order states that Plaintiff will dispute evidence regarding the past misconduct and bias of defendant and the introduction of hearsay documents. See ECF No. 163 at 2. Plaintiff objects that the pretrial order does not also reflect his intention to oppose Defendant Medina’s proposed exhibits and witnesses that are excludable under various Rules of Evidence. Good cause appearing, the pretrial order is amended

1 to reflect Plaintiff's intention to oppose Defendant's proposed exhibits and witnesses that are
2 excludable under various Rules of Evidence.

3 Objection No. 2

4 Plaintiff objects that the section of the pretrial order listing further discovery or motions
5 does not reflect his intention to file motions in limine and a motion for sanctions regarding
6 defendant's proposed exhibits and witnesses. See ECF No. 163 at 5. This section of the pretrial
7 order refers to the filing of further dispositive motions. Accordingly, Plaintiff's request to amend
8 the pretrial order to reflect his intention to file motions regarding Defendants' exhibits and
9 witnesses is denied as unnecessary.

10 Objection No. 3

11 Plaintiff objects to the deadlines set in the pretrial order for the filing of motions in limine,
12 jury instructions, voir dire and the exchange of exhibits. The pretrial order provides that sixty
13 days prior to trial, the parties shall serve their exhibits on opposing counsel. See id. at 5.
14 Objections to exhibits are due fourteen days prior to trial. Id. Motions in limine, proposed jury
15 instructions and voir dire must be filed not later than seven days prior to trial. Id. at 6-7.

16 Plaintiff alleges that he cannot comply with the deadlines because he will be in the process
17 of being transferred to a new prison just prior to trial. Plaintiff also states that he will unable to
18 comply with the deadlines because they are close to the holiday season.

19 Plaintiff has sufficient time to serve Defendant with his exhibits prior trial. Because
20 Defendant will serve plaintiff with his objections sixty days prior to trial, Plaintiff has sufficient
21 time to prepare and file his objections to Defendant's exhibits. The pretrial order does not
22 prohibit Plaintiff from filing his motions in limine, proposed jury instructions and voir dire prior
23 to seven days before the trial. However, so that these documents are not filed prematurely,
24 Plaintiff shall file them no sooner than thirty days prior to trial.

25 Because Plaintiff has adequate time to prepare the documents discussed above, Plaintiff's
26 request that the court change the deadlines set in the pretrial order is denied.

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1 Objection No. 4

2 Plaintiff objects to the Magistrate Judge's denial of Plaintiff's request for appointment of
3 a neutral medical expert. The Court has reviewed the file and finds the Magistrate Judge's order
4 denying Plaintiff's request for appointment of a neutral medical expert is supported by the record
5 and by the Magistrate Judge's analysis.


6 Objection No. 5

7 Plaintiff objects that the pretrial order does not list all of the disputed facts listed in
8 Plaintiff's pretrial statement. The Court finds that the pretrial order adequately identifies the
9 disputed facts. Plaintiff's request that the pretrial order be amended to list all of the disputed facts
10 contained in his pretrial statement is denied.

11 Accordingly, Plaintiff's request for reconsideration (ECF No. 167) is construed as
12 objections to the pretrial order; Plaintiff's request that the pretrial order be amended to reflect his
13 intention to oppose defendant's proposed exhibits and witnesses that are excludable under various
14 Rules of Evidence is GRANTED; Plaintiff's remaining requests to amend the pretrial order are
15 DENIED.

16 IT IS SO ORDERED.

17 Dated: September 3, 2014

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20 MORRISON C. ENGLAND, JR., CHIEF JUDGE
21 UNITED STATES DISTRICT COURT
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