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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

JIMMIE STEPHEN,  
  
Plaintiff,  
  
vs.  
  
J. CLARK KELSO, federal receiver for the  
California Department of Corrections and  
Rehabilitation; CALIFORNIA  
DEPARTMENT OF CORRECTIONS AND  
REHABILITATION; KOU-YING  
HSIEH, M.D.; WENDELL WARREN  
WENNEKER, M.D.; ALVARO CRUZ  
TRAQUINA, M.D.; SAMUEL WILLIAM  
MCALPINE, M.D.,  
  
Defendants.

No. 2:10-CV-1678-KJM-KJN (P)

**STIPULATED ORDER OF PARTIAL  
DISMISSAL WITH PREJUDICE  
FIRST CLAIM FOR VIOLATION OF  
PLAINTIFF'S EIGHTH AMENDMENT  
RIGHTS**

Plaintiff JIMMIE STEPHEN and defendant WENDELL WARREN  
WENNEKER, M.D., by and through their respective attorneys, hereby stipulate and  
agree, pursuant to Federal Rules of Civil Procedure 41(a)(1)(A)(ii) and 41(a)(2), that  
plaintiff JIMMIE STEPHEN's first claim entitled "Violation of Plaintiff's Eighth

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1 Amendment Rights,” is dismissed with prejudice as to defendant WENDELL  
2 WARREN WENNEKER, M.D.

3 **IT IS SO STIPULATED.**

4 HASSARD BONNINGTON, LLP

MOORE LAW FIRM, P.C.

5  
6 By: /s/ John A. Etchevers  
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13 *Attorneys for Wendell Wenneker, M.D.*


*Attorneys for Plaintiff*

14 Pursuant to the stipulation of these parties (ECF No. 101), and Federal  
15 Rules of Civil Procedure 41(a)(1)(A)(ii) and 41(a)(2), defendant Wenneker is hereby  
16 dismissed, with prejudice, from plaintiff’s first claim entitled “Violation of Plaintiff’s  
17 Eighth Amendment Rights.”

18 This action proceeds against defendant Wenneker on plaintiff’s second,  
19 supplemental state law, claim entitled “Medical Malpractice,” and against all other  
20 defendants based on the allegations and claims set forth in plaintiff’s Fourth Amended  
21 Complaint (ECF No. 91). At the request of all parties, the discovery deadline in this  
22 action remains extended until October 7, 2013, to permit additional time for the  
23 parties to engage in discovery and further settlement negotiations. (ECF No. 100.)

24 **SO ORDERED.**

25 Dated: September 13, 2013

26   
27 KENDALL J. NEWMAN  
28 UNITED STATES MAGISTRATE JUDGE