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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

THOMAS JOHN HEILMAN,  
Plaintiff,  
v.  
C. CHERNISS, et al.,  
Defendants.

No. 2:11-cv-0042-JAM-EFB P

ORDER AFTER HEARING

Thomas Heilman (“plaintiff”) has filed a motion to take more than ten depositions (ECF No. 240) and a request to seal documents (ECF No. 241). On August 29, 2018, the court held a hearing on both matters. Attorney Jason German appeared on behalf of plaintiff; Attorneys Tyler Onitsuka and William McCaslin appeared on behalf of defendants. For the reasons stated on the record and summarized below, plaintiff’s motion to take more than ten depositions is granted in part. The request to seal is granted, but solely for the purposes of discovery. Finally, the deadline for fact discovery will be extended.

Motion to Take More Than Ten Depositions

Plaintiff seeks to take a total of seventeen depositions. At the time of the filing of his motion, he had taken four. At the hearing, the parties advised the court that, since the motion’s filing, plaintiff had taken four more depositions. Specifically, since the filing of this motion, plaintiff has deposed:

- 1 1. Travyon Harbor (Witness Number One);<sup>1</sup>
- 2 2. Charles Edwards (Witness Number Three);
- 3 3. Tracy Sullivan (Witness Number Seven); and
- 4 4. Tony Lee (Witness Number Eight).

5 The parties also advised the court that inmate Gregory Dyas (Witness Number Two) has  
6 indicated that he is not amenable to being deposed in this matter. Based on Mr. Dyas' reluctance,  
7 plaintiff states that he will not be pursuing that deposition any further. Finally, plaintiff advised  
8 the court that he had withdrawn his request to depose Nicole Daniel (Witness Number Eleven).

9 Thus, plaintiff's motion is granted in part and as to:

- 10 1. Daniel Patillo (Witness Number Four);
- 11 2. Victor Cordero (Witness Number Five);
- 12 3. Timoteo Gomez (Witnesses Number Six);
- 13 4. Daniel Ross (Witness Number Nine);
- 14 5. Von Motschenbacher (Witness Number Ten); and
- 15 6. Michele Ortega (Witness Number Twelve).

16 Plaintiff's request for a Fed. R. Civ. P. 30(b)(6) deposition of the California Department  
17 of Corrections and Rehabilitation is granted in part. At the hearing, plaintiff's counsel indicated  
18 that the primary purpose of this deposition was for authentication of documents. Defendants'  
19 counsel indicated that they might be able to stipulate to the authenticity of at least some of the  
20 documents at issue. Thus, plaintiff may proceed with this deposition, but only after the parties  
21 meet and confer as to the possibility of stipulating to the authenticity of the relevant documents.

#### 22 Request to Seal

23 For the reasons stated on the record, plaintiff's request to seal exhibits three through nine  
24 to the declaration of Jason German (which was filed in support of plaintiff's motion to take more  
25 ten depositions) is granted. Plaintiff's request to seal the unredacted version of the joint statement  
26 on that motion which quotes and refers to the foregoing exhibits is also granted. These

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28 <sup>1</sup> The numeric designations refer to those given in the joint statement.

1 documents will be filed under seal, as the court advised the parties at the hearing, solely for the  
2 purposes of discovery. In the event any of these sealed documents are relied upon in a future  
3 dispositive motion or at trial, the parties will have to file a renewed request to seal directed to the  
4 district judge assigned to this case.

5 Extension of the Discovery Deadline

6 The previous deadline for fact discovery was September 4, 2018. ECF No. 235. As stated  
7 at the hearing, that deadline is extended to October 5, 2018.

8 Conclusion

9 Accordingly, it is ORDERED that:

- 10 1. Plaintiff's motion to take more than ten depositions (ECF No. 240) is GRANTED  
11 in part as articulated at the hearing and as summarized in this order;
- 12 2. Plaintiff's request to seal (ECF No. 241) is GRANTED, but only, as articulated at the  
13 hearing and in this order, with respect to discovery in this matter;
- 14 3. The Clerk is directed to file exhibits three through nine to the declaration  
15 of Jason German and the unredacted version of the joint statement on plaintiff's motion to take  
16 more than ten depositions under seal;
- 17 4. The foregoing documents are to be sealed **indefinitely for the purposes of discovery**  
18 and, other than the court itself, only designated counsel in this action shall be allowed to view  
19 them; and
- 20 5. The deadline for fact discovery in this matter is extended to October 5, 2018.

21 DATED: September 27, 2018.

22   
23 EDMUND F. BRENNAN  
24 UNITED STATES MAGISTRATE JUDGE  
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