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

MICHAEL TENORE,

Plaintiff,

No. 2:11-cv-1082 WBS CKD P

vs.

NATHANAEL GOODGAME, et al.,

Defendants.

ORDER

_____ /

This action pursuant to 42 U.S.C. § 1983 proceeds on certain claims in the First Amended Complaint, filed on August 29, 2012. (Dkt. No. 22 (FAC).) On November 27, 2012, the district court ordered that the operative claims in the FAC are against defendants Goodgame, Tseng, Heatley, Heffner, and Smith, and concern medical treatment for plaintiff’s scabies. All other claims are dismissed. (Dkt. No. 31, adopting findings and recommendations at Dkt. No. 27.)

Before the court is defendants’ November 9, 2012 motion seeking an amended discovery and scheduling order, among other relief. (Dkt. No. 30.) In light of the FAC, the original scheduling order filed on August 2, 2012 (Dkt. No. 17) will be vacated. Per defendants’ request, and good cause appearing, defendants need not respond to plaintiff’s discovery requests served October 3, 2012.

1 Defendants seek an amended discovery and scheduling order setting new dates for
2 the service of discovery requests, discovery cutoff, and dispositive motions. However, as
3 defendants have not yet filed an answer to the FAC (or at least indicated that they intend to stand
4 on their answer to the original complaint), such an order would be premature. Defendants will
5 have the opportunity to answer the FAC, after which an amended discovery and scheduling order
6 will issue.

7 On September 13, 2012, a summons was returned unexecuted for defendant L.
8 Heffner, noting “per facility, currently not working for Dept. of Corrections and Rehabilitation.”
9 (Dkt. No. 23.) As this defendant’s location is discoverable by plaintiff, the court will expedite
10 matters by directing defendants’ counsel to conduct a good-faith inquiry into this defendant’s
11 whereabouts and so inform the court. See Fed. R. Civ. P. 26(b)(1) (identity and location of
12 persons having knowledge of any discoverable matters are discoverable).

13 Accordingly, IT IS HEREBY ORDERED THAT:

14 1. Defendants’ motion to amend the discovery and scheduling order (Dkt. No. 30)
15 is granted as follows:

16 a. The discovery and scheduling order filed August 2, 2012 (Dkt.

17 No. 17) is hereby VACATED;

18 b. Defendants shall reply to the FAC within 30 days of service of
19 this order. If defendants’ reply is an answer, an amended discovery
20 and scheduling order will issue thereafter.

21 c. Defendants need not respond to plaintiff’s discovery requests
22 served on October 3, 2012. Plaintiff may propound new discovery
23 requests pursuant to an amended discovery and scheduling order if
24 and when such issues.

25 2. Defendants’ counsel shall query the CDCR to ascertain the whereabouts of
26 defendant L. Heffner. If counsel is informed of the business address of defendant Heffner,

1 counsel shall provide the address to plaintiff. In the event that counsel, after conducting a good
2 faith inquiry, cannot ascertain the business address of defendant Heffner, counsel shall so inform
3 the court. Defendants' counsel shall file and serve the appropriate response within thirty days of
4 the file date of this order.

5 Dated: November 28, 2012

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8 CAROLYN K. DELANEY
9 UNITED STATES MAGISTRATE JUDGE
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12 teno1082.ord
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