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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

SAMUEL ANDERSON,
Plaintiff,
v.
J. CLARK KELSO, et al.,
Defendants.

No. 2: 12-cv-0261 MCE KJN P

ORDER

Plaintiff is a state prisoner, proceeding through counsel, with a civil rights action pursuant to 42 U.S.C. § 1983. On July 12, 2013, the court ordered plaintiff to file a statement on or before July 26, 2013 setting forth the depositions he feels are imperative to take. On July 26, 2013, plaintiff filed this statement. Plaintiff states that he proposes to take the depositions of Dr. Lee, Dr. Swingle and Dr. Cummings.

On August 1, 2013, defendants filed a response to plaintiff's statement regarding the proposed depositions. Defendants state that if the court permits plaintiff to conduct depositions, he should be permitted to depose Dr. Lee and Dr. Cummings only. Defendants state that the issues plaintiff intends to cover with Dr. Lee and Dr. Swingle overlap, and taking both depositions would result in duplicative or cumulative testimony.

Good cause appearing, plaintiff is permitted to depose Dr. Lee and Dr. Cummings. For the reasons stated by defendants in their August 1, 2013 pleading, plaintiff's request to depose Dr.

1 Swingle is denied. If, however, after taking the depositions of Dr. Lee and Dr. Cummings,
2 plaintiff's counsel can show that it is imperative that he depose Dr. Swingle, he may file a
3 renewed request to take Dr. Swingle's deposition.


4 The July 12, 2013 order also directed plaintiff to address in his July 26, 2013 pleading
5 when his expert witness would be available for report and deposition. In his July 26, 2013
6 pleading, plaintiff states that he will seek to conduct expert discovery as well. Plaintiff does not
7 state when his expert will be available for report and deposition.

8 The July 12, 2013 order also directed plaintiff to file a statement regarding his client's
9 filings on or before August 2, 2013. Plaintiff's counsel did not file this briefing.

10 Accordingly, IT IS HEREBY ORDERED that:

- 11 1. Plaintiff's request to depose Dr. Lee and Cummings is granted; plaintiff's request to
12 depose Dr. Swingle is denied without prejudice; these depositions shall be conducted
13 within thirty days of the date of this order;
- 14 2. Within seven days of the date of this order, plaintiff shall file a short pleading
15 addressing when his expert witness will be available for report and deposition;
- 16 3. Within seven days of the date of this order, plaintiff shall file his statement regarding
17 his client's filings;
- 18 4. Failure to comply with this order will result in the imposition of sanctions.

19 Dated: August 8, 2013

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22 KENDALL J. NEWMAN
23 UNITED STATES MAGISTRATE JUDGE

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