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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOHN PHILIP MONCRIEF,  
Plaintiff,

v.

CALIFORNIA DEPARTMENT OF  
CORRECTIONS AND  
REHABILITATION, et al.,  
Defendant.

No. 2:12-cv-0414 MCE AC P

ORDER

Plaintiff is a state prisoner, proceeding through counsel with a civil rights action pursuant to 42 U.S.C. § 1983. Currently before the court is the parties’ stipulation to extend the time for defendants to take plaintiff’s deposition. ECF No. 79. The stipulation also includes a request by defendants to enlarge the dispositive motion deadline. Id. at 2. It is not clear whether the request to extend the dispositive motion deadline is a stipulated request.

The parties seek to extend the time for defendants to take plaintiff’s deposition due to health issues that are allegedly preventing plaintiff from sitting for a two to three hour deposition. Id. at 2. The deadline for party depositions was initially February 12, 2016. ECF No. 75. Upon stipulation of the parties, the deadline was extended five days to February 17, 2016, due to difficulties in coordinating schedules for plaintiff’s deposition, which will take place in San Diego. ECF No. 78. Plaintiff’s deposition was to take place on February 17, 2016, however, the

1 deposition was rescheduled to February 24, 2016, at the request of plaintiff's counsel. Plaintiff's  
2 counsel then advised that according to plaintiff's mother, plaintiff was in too much pain to sit for  
3 a deposition. ECF No. 79 at 2. At this point, defense counsel contacted plaintiff's primary care  
4 physician who opined that plaintiff is physically capable of sitting for a deposition and the  
5 deposition was rescheduled for March 2, 2016. Id. On February 29, 2016, counsel for plaintiff  
6 advised that plaintiff is still in too much pain to sit for a deposition and that plaintiff intends to  
7 hire an independent doctor to assess his condition and provide treatment if necessary. Id. No  
8 timeline has been provided for this independent evaluation. Id. The parties request that the  
9 deadline for taking plaintiff's deposition be extended to April 1, 2016, and defendants request that  
10 the dispositive motion deadline be extended to May 2, 2016. Id.

11 Although the request to extend the deposition deadline is untimely, it appears that it is  
12 untimely because, up until the date the stipulation was filed, it was believed that plaintiff's  
13 deposition would take place as rescheduled. The court will therefore grant the stipulation to  
14 extend the deposition deadline. However, as the parties have already been cautioned, due to the  
15 age of this case, further requests to continue will be highly disfavored. ECF No. 75 at 2. The  
16 parties are further cautioned that any additional requests for extension must include a set date for  
17 plaintiff's deposition or, if a date has not been set, address why accommodations such as allowing  
18 plaintiff to be deposed while lying down or to take breaks during the deposition would not be  
19 sufficient to allow the deposition to be scheduled and go forward. If plaintiff intends to obtain an  
20 outside evaluation, it should be done without delay. Any future requests must include the results  
21 of such evaluation as to plaintiff's ability to sit for a deposition or explain why the evaluation has  
22 not been done and state the date on which it will take place. Unjustified delay in obtaining an  
23 independent consultation shall not be cause for plaintiff to postpone his deposition indefinitely.  
24 Because the court will enlarge the deadline to depose plaintiff, the request to extend the  
25 dispositive motion deadline will also be granted.

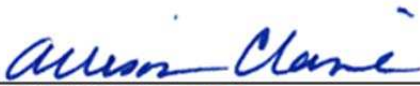
26 Accordingly, IT IS HEREBY ORDERED that:

27 1. The parties' stipulation to extend the time to take plaintiff's deposition (ECF No. 79) is  
28 granted and defendants shall have until April 1, 2016, to take plaintiff's deposition.

1           2. Defendants' request to extend the deadline for filing dispositive motions (ECF No. 79)  
2 is granted and dispositive motions shall be filed no later than May 2, 2016, and heard no later  
3 than June 1, 2016.

4           3. All other deadlines remain unchanged.

5 DATED: February 29, 2016

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7 ALLISON CLAIRE  
8 UNITED STATES MAGISTRATE JUDGE  
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