

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MICHAEL GRESS,

Plaintiff,

v.

DR. CHRISTOPHER SMITH, et al. ,

Defendants.

No. 2:13-cv-0328 TLN KJN P

ORDER

Plaintiff is a state prisoner, proceeding through counsel, with this civil rights action filed pursuant to 42 U.S.C. § 1983. Plaintiff filed a request for a status conference under Local Rule 240(a), which states, in pertinent part:

After an action has been filed, the assigned Judge or Magistrate Judge shall order the holding of one or more status conferences for the purpose of entering a pretrial scheduling order, and further status conferences may be held at any time thereafter, with or without the request of any party. See Fed. R. Civ. P. 16. . . . Such subjects may include:

. . . (7) the disposition of pending motions, . . . (11) further proceedings, including setting dates for further conferences, for the completion of motions and discovery and for pretrial and trial; . . . (18) any other matters that may facilitate the just, speedy and inexpensive determination of the action.

E.D. L.R. 240(a).

////

1 In this case, discovery and scheduling orders have already issued. (See, e.g., ECF Nos.
2 58, 59.) Discovery is closed. The defendants filed motions for summary judgment, and their
3 reply was filed on July 7, 2017. The deadline for filing a sur-reply expired on April 13, 2018.
4 Defendants' motions are fully briefed and submitted for decision.

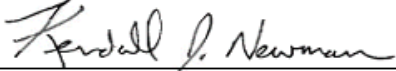
5 Therefore, a status conference will not facilitate the court in ruling on the twelve
6 defendants' pending motions, but rather usurp limited judicial resources. It is premature to set
7 dates for pretrial and trial because the outcome of these dispositive motions has not yet been
8 determined. Once the undersigned issues findings and recommendations, and the district court
9 addresses them, a further scheduling order will issue, as appropriate.

10 In addition, plaintiff's declarations filed in support of his opposition are not signed by
11 plaintiff as required under Rule 11(a) of the Federal Rules of Civil Procedure. (ECF Nos. 132-3
12 and 133.) It may be that plaintiff's counsel retained the signed original declarations. Local Rule
13 131(f). If so, counsel need only file a replacement signature page with the appropriate /s/ and
14 plaintiff's name as required. Id. If not, counsel is granted seven days in which to re-submit
15 declarations bearing plaintiff's signature.

16 Accordingly, IT IS HEREBY ORDERED that:

- 17 1. Plaintiff's motion for status conference (ECF No. 168) is denied; and
18 2. Within seven days, plaintiff shall rectify the missing signatures on plaintiff's
19 declarations.

20 Dated: October 1, 2018

21 
22 _____
23 KENDALL J. NEWMAN
24 UNITED STATES MAGISTRATE JUDGE

25 /cw/gres0328.240