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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

HENRY A. JONES,
Plaintiff,
v.
P. KUPPINGER, et al.,
Defendants.

No. 2:13-cv-0451 AC P

ORDER and
FIRST AMENDED ORDER
SETTING TRIAL AND
FILING OF SEPARATE
PRETRIAL STATEMENTS

Following issuance of this court’s original Order Setting Trial, ECF No. 134, defense counsel informed the court that he is unable to participate in trial on the originally designated dates (commencing October 22, 2018), due to a conflict previously overlooked when he informed the court of his black-out dates, see ECF No. 136. Defense counsel informs the court that he is available to commence trial the following week, on October 29, 2018, which is also available on the court’s calendar. The following order, and companion writ ad testificandum, are amended accordingly.

Plaintiff Henry Jones is a state prisoner proceeding pro se with this civil rights action filed against defendant correctional officers P. Kuppinger and G. Moore. The action proceeds on plaintiff’s Second Amended Complaint (SAC). ECF No. 30. Following the partial denial of defendants’ motion for summary judgment on October 20, 2017, this case proceeds on plaintiff’s Eighth Amendment excessive force claim against defendant Moore, and Eighth Amendment

1 failure to protect claim against both defendants Moore and Kuppinger. See ECF Nos.111, 113.
2 Following an unsuccessful mediation conference on January 9, 2018, ECF No. 119, this case now
3 proceeds to jury trial, see ECF Nos. 30, 48. Additionally, pursuant to the consent of the parties,
4 this action now proceeds pursuant to the authority of the undersigned magistrate judge for all
5 purposes under 28 U.S.C. § 636(c) and Local Rule 305(a). See ECF No. 133.

6 At the court's direction, defendants filed a statement reflecting the dates they are
7 unavailable for pretrial and trial proceedings, in which they estimate a three-day trial. See ECF
8 No. 131.

9 Accordingly, IT IS HEREBY ORDERED that:

10 1. Defendant's ex parte request to continue the trial date in this action, ECF No. 136, is
11 GRANTED.

12 2. The court's order and writ issued March 29, 2018, ECF Nos. 134 & 135, are
13 VACATED.

14 3. Jury trial will commence before the undersigned on **Monday, October 29, 2018**, at
15 9:00 a.m., in Courtroom No. 26; the estimated length of trial is three days.

16 4. On or before May 4, 2018, the parties shall file separate Pretrial Statements addressing
17 each of the matters set forth in Local Rule 281(b).

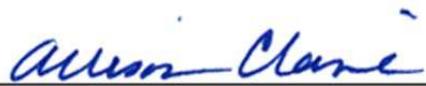
18 5. The court will review the parties' Pretrial Statements on the papers, without scheduling
19 a pretrial conference. Thereafter, the court will issue a Pretrial Order providing further directions
20 to the parties, including the deadline for filing *in limine* motions.

21 6. Plaintiff's motion *in limine* filed March 5, 2018, ECF No. 129, remains denied as
22 premature.

23 7. By separate order, the court will issue an amended *writ ad testificandum* to obtain
24 plaintiff's presence at trial.

25 IT IS SO ORDERED.

26 DATED: April 9, 2018

27 
28 ALLISON CLAIRE
UNITED STATES MAGISTRATE JUDGE