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8 UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
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11 EVERETT JEWETT, et al.,

No. 13-cv-0882 MCE AC P

12 Plaintiff,

13 v.

ORDER

14 CALIFORNIA FORENSIC MEDICAL
15 GROUP, INC., et al.,

16 Defendants.
17

18 Plaintiff Everett Jewett is a former Shasta County Jail inmate¹ proceeding through counsel
19 and in forma pauperis with an action filed pursuant to 42 U.S.C. § 1983.

20 Procedural Background

21 On April 2, 2014, plaintiff filed a fourth amended complaint in pro se, naming the Shasta
22 County Sheriff's Department, California Forensic Medical Group, Dr. Jeremy Austin, Mary
23 Barns, and James Roemeh as defendants. ECF No. 17. On September 24, 2014, the court found
24 that the fourth amended complaint stated cognizable claims for relief against defendants for
25 violations of Title II of the Americans with Disabilities Act (ADA), 42 U.S.C. § 1201, et seq.
26 based on defendants' alleged failure to accommodate plaintiff's physical disabilities and
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28 ¹ According to the State of California Inmate Locator, plaintiff is currently incarcerated at California Medical Facility. See <http://inmatelocator.cdcr.ca.gov/search.aspx>.

1 plaintiff's alleged exclusion from programs and services at the Shasta County Jail because of
2 plaintiff's disabilities. ECF No. 21.

3 On November 17, 2014, defendants Austin, Barns, Roemeh, and California Forensic
4 Medical Group answered the complaint. ECF No. 27. On November 21, 2014, the court issued a
5 discovery scheduling order setting forth the deadlines for discovery and the filing of pretrial
6 motions. ECF No. 30. Defendant Shasta County Sheriff's Department answered the complaint
7 on December 17, 2014. ECF No. 31.

8 The parties proceeded to conduct discovery. On March 2, 2015, defendant Shasta County
9 Sheriff's Department filed a motion to extend the cut-off dates for discovery and the filing of pre-
10 trial motions by 180 days, ECF No. 40, which the court granted, ECF No. 42.

11 On May 14, 2015, counsel for plaintiff filed a notice of appearance. ECF No. 45.

12 On August 25, 2015, the parties filed a stipulation and joint request to extend the
13 discovery deadline to March 15, 2016 and the pretrial motion deadline to June 15, 2016. ECF
14 No. 49. The court granted the parties' request and amended the discovery and pretrial motion
15 deadlines in accordance with the stipulation. ECF No. 50. On January 4, 2016, the parties filed a
16 stipulation and petition to enter into a protective order regarding confidential discovery material.
17 ECF No. 52. The court approved the stipulated protective order on January 11, 2016. ECF No.
18 53.

19 On March 14, 2016, the parties filed a stipulation and joint request to vacate the discovery
20 and motion deadlines, citing the need for additional time to conduct discovery and plaintiff's
21 intention to file an amended complaint prepared by counsel. ECF No. 55. The court granted the
22 parties' request, and plaintiff was granted sixty days to file an amended complaint. ECF No. 56.
23 On May 16, 2016, the parties filed a stipulation and joint request to extend the deadline for the
24 filing of plaintiff's amended complaint. ECF No. 60. The district judge granted the parties'
25 request on May 17, 2016. ECF No. 61.

26 On May 25, 2016, the parties filed a joint stipulation and proposed order granting plaintiff
27 leave to file a fifth amended complaint. ECF No. 62. On June 2, 2016, the district judge granted
28 plaintiff leave to file a fifth amended complaint. ECF No. 63. Plaintiff's fifth amended

1 complaint was filed on June 2, 2016. ECF No. 65.

2 Fifth Amended Complaint

3 The fifth amended complaint differs from the fourth amended complaint in the following
4 respects:

- 5 • Dr. Jeremy Austin, Mary Barns, and James Roemeh have been removed as
6 defendants;
- 7 • Shasta County; Shasta County Sheriff Tom Bosenko, named solely in his official
8 capacity in the injunctive relief claims only; and Does 1 through 25 have been
9 added as defendants;
- 10 • Claims have been added against defendants Shasta County Sheriff's Department,
11 Tom Bosenko, Shasta County, and California Forensic Medical Group for
12 violations of § 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794 et seq.),
13 California Government Code § 11135, et seq., and California Government Code §
14 4450, et seq.;
- 15 • Claims have been added against all defendants for violations of the Bane Act (Cal.
16 Civ. Code § 52.1);
- 17 • Claims have been added against California Forensic Medical Group for violation
18 of the Unruh Civil Rights Act (Cal. Civ. Code § 51, et seq.) and Title III of the
19 Americans with Disabilities Act (42 U.S.C. § 12181, et. seq.);
- 20 • Glen Harold Everett, Michael Donald Ackley, and Harold Robert Marquette have
21 been added as individual plaintiffs;
- 22 • Legal Services for Prisoners with Children has been added as an organizational
23 plaintiff; and
- 24 • The claims for injunctive relief have been amended such that they are made on a
25 class-wide basis.

26 See ECF No. 65; ECF No. 63 at 2-3.

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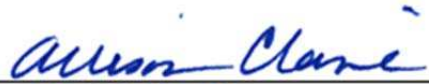
1 The amended complaint states potentially cognizable claims for relief pursuant to 42
2 U.S.C. § 1983 and 28 U.S.C. § 1915A(b). If the allegations in the complaint are proven, plaintiffs
3 have a reasonable opportunity to prevail on the merits of this action.

4 New defendants Shasta County and Tom Bosenko, Sheriff of Shasta County, have not yet
5 been served or otherwise appeared in this action. Once all defendants have been served, and
6 responses to the amended complaint have been filed, the court will issue an order setting a status
7 conference.

8 In accordance with the above, IT IS HEREBY ORDERED that:

- 9 1. Dr. Jeremy Austin, Mary Barns, and James Roemeh are dismissed as defendants in
10 this action.
- 11 2. Service is appropriate for the following defendants: Shasta County and Tom Bosenko,
12 Sheriff of Shasta County.²
- 13 3. Within fourteen days of the date of this order, counsel for defendant Shasta County
14 Sheriff's Department, Mr. Gary Brickwood, is directed to file waivers of service of
15 process for new defendants Shasta County and Tom Bosenko, or show cause in
16 writing why he is unable to do so.
- 17 4. All defendants shall have thirty days from the date of service of the fifth amended
18 complaint, or the filing of waivers of service thereto, to answer or otherwise respond
19 to the complaint.
- 20 5. Within sixty days of the filing date of this order, the parties shall file a joint statement
21 of availability for the period of September 1, 2016 through November 30, 2016,
22 indicating blackout dates when counsel will not be available for a status conference.³

23 DATED: June 22, 2016

24 
25 ALLISON CLAIRE
UNITED STATES MAGISTRATE JUDGE

26 _____
27 ² The court expresses no opinion at this time as to the propriety of including both Shasta County
28 Sheriff's Department and Shasta County as defendants in this action.

³ The parties may file their joint statement of availability at an earlier date if all defendants have
been served.