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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MICHAEL AARON WITKIN,
Plaintiff,

v.

MARIANA LOTERSZTAIN, et al.,
Defendants.

No. 2:15-cv-0638 MCE KJN P

ORDER

Plaintiff, a state prisoner proceeding pro se, has filed this civil rights action seeking relief under 42 U.S.C. § 1983. On December 22, 2016, the parties were ordered to meet and confer, to address plaintiff’s pending request to depose defendants’ expert prior to filing his opposition to the motion for summary judgment. On January 23, 2017, the parties filed a joint status report confirming that the parties have conferred concerning the potential costs for Dr. Barnett’s deposition, and have agreed on a procedure by which plaintiff will demonstrate proof of sufficient funds to cover the costs of the deposition by January 31, 2017. (ECF No. 49 at 1-2.) In addition, the parties have agreed to a tentative deposition date of March 13, 2017, at 10:00 a.m., at the institution in which plaintiff is housed. (ECF No. 49 at 2.)

On January 27, 2017, plaintiff filed proof of available funds to depose Dr. Barnett.

It is unclear whether defendants will need to revise their pending motion for summary judgment in light of Dr. Barnett’s deposition. However, the deposition may impact plaintiff’s

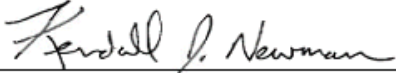
1 opposition. Therefore, good cause appearing, defendants' motion for summary judgment is
2 denied without prejudice to its renewal following the deposition of Dr. Barnett. Defendants may
3 file an amended motion for summary judgment, or they may opt to simply file a re-notice of their
4 motion for summary judgment, incorporating the April 8, 2016 filings by reference.

5 Accordingly, IT IS HEREBY ORDERED that:

6 1. Defendants' motion for summary judgment (ECF No. 30) is denied without prejudice
7 to its renewal; and

8 2. Defendants may re-file or re-notice their motion for summary judgment within
9 fourteen days from Dr. Barnett's deposition, which shall be briefed pursuant to Local Rule 230(l).

10 Dated: February 6, 2017

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12 _____
13 KENDALL J. NEWMAN
14 UNITED STATES MAGISTRATE JUDGE

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