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8 UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
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11 DANIEL E. GONZALEZ,
12 Plaintiff,

13 v.

14 UNITED STATES OF AMERICA, et al.,
15 Defendants.
16

No. 2:15-cv-1997 MCE DB PS

ORDER

17 Plaintiff, Daniel Gonzalez, is proceeding pro se and in forma pauperis. (ECF No. 6.) This
18 matter was referred to the undersigned in accordance with Local Rule 302(c)(21) and 28 U.S.C. §
19 636(b)(1). Plaintiff's amended complaint alleges that medical professionals at the Veterans
20 Administration Hospital, "negligently and inadvertently misdiagnosed and delayed" plaintiff's
21 medical treatment causing plaintiff harm. (Am. Compl. (ECF No. 11) at 2.)

22 On October 12, 2018, defendant filed a motion to compel the deposition of plaintiff's
23 expert witness, Dr. Craig Bash. (ECF No. 78.) Defendant has also filed an ex parte application
24 for an order shortening time to hear defendant's motion on October 19, 2018. (ECF No. 79.)
25 Local Rule 144(e) provides:

26 Ex parte applications to shorten time will not be granted except upon
27 affidavit of counsel showing a satisfactory explanation for the need
28 for the issuance of such an order and for the failure of counsel to
obtain a stipulation for the issuance of such an order from other
counsel or parties in the action.

1 Here, defendant argues that the October 19, 2018 hearing on shortened time is necessary
2 because “[i]f this motion were filed on the usual 21-day notice period, (see Local Rule 251), it
3 could not be heard until November 2, the last day of the discovery period.” (ECF No. 79 at 2.)
4 The general 21-day notice period set forth in Local Rule 251(a), however, does not apply to
5 defendant’s motion.

6 Instead, Local Rule 251(e) provides that “when there has been a complete and total failure
7 to respond to a discovery request or order” the “aggrieved party may bring a motion for relief for
8 hearing on fourteen (14) days notice.”¹ Here, defendant’s motion argues there was a complete
9 and total failure to respond to a discovery request, i.e., to produce Dr. Bash for deposition.
10 Hearing defendant’s motion on 14 days’ notice would allow for the motion to be heard in
11 compliance with the Local Rules, prior to the close of discovery, permit any further meet and
12 confer, and allow for full briefing from the parties. Moreover, as defendant is aware, the
13 undersigned may modify the discovery deadline in this action if necessary.

14 Accordingly, IT IS HEREBY ORDERED that:

15 1. Defendant’s October 12, 2018 ex parte application to shorten time (ECF No. 79) is
16 denied;

17 2. The October 19, 2018 hearing of defendant’s motion to compel (ECF No. 78) is
18 continued to **Friday, October 26, 2018, at 10:00 a.m.**, at the United States District Court, 501 I
19 Street, Sacramento, California, in Courtroom No. 27, before the undersigned. Any party may
20 appear at the hearing telephonically if the party pre-arranges such appearance by contacting Pete
21 Buzo, the courtroom deputy of the undersigned magistrate judge, at (916) 930-4128, no later than
22 48 hours before the hearing; a party may not appear telephonically over a cellphone;

23 3. On or before **October 19, 2018**, plaintiff shall file a response to defendant’s motion to
24 compel; and


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27 ¹ This provision also excepts the parties from the requirement for filing a Joint Statement re
28 Discovery Disagreement.

1 4. On or before **October 24, 2018**, defendant shall file a reply, if any, to plaintiff's
2 response.

3 Dated: October 15, 2018

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6 DEBORAH BARNES
7 UNITED STATES MAGISTRATE JUDGE
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