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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DANIEL E. GONZALEZ,
Plaintiff,
v.
UNITED STATES OF AMERICA, et al.,
Defendants.

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

ORDER

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


On October 12, 2018, defendant filed a motion to strike plaintiff’s disclosed expert, Dr. Craig Bash, or to compel the deposition of Dr. Bash. (ECF No. 78.) Therein, defendant explains that Dr. Bash failed to appear at a previously scheduled deposition. (Id. at 2.) Plaintiff’s opposition fails to substantively oppose defendant’s motion, and instead argues that it is “premature” as “[t]he date arranged and agreed upon for Dr. Bash to appear for his deposition is October 31, 2018[.]” (ECF No. 83 at 1.) Defendant’s reply also states that Dr. Bash will be deposed on October 31, 2018. (ECF No. 82 at 3.)

1 Therefore, defendant’s motion to compel will be granted and the November 2, 2018
2 hearing vacated. Defendant asks that the hearing remain on calendar “in the event that [plaintiff]
3 does not permit” the deposition. (ECF No. 82 at 1.) Although the request is understandable, the
4 undersigned would prefer briefing prior to resolving such a dispute, particularly given the
5 potential sanctions to plaintiff. However, it should be clear to plaintiff that defendant’s motion to
6 compel Dr. Bash’s deposition is granted. If the deposition does not go forward, plaintiff and/or
7 Dr. Bash will be subject to sanctions. Moreover, although discovery must be completed by
8 November 2, 2018, the undersigned retains the authority to ensure her orders have been complied
9 with even after the close of discovery.

10 Accordingly, IT IS HEREBY ORDERED that:

- 11 1. Defendant’s October 12, 2018 motion to compel (ECF No. 78) is granted;
- 12 2. Dr. Bash shall be deposed on October 31, 2018¹; and
- 13 3. The **November 2, 2018** hearing of defendant’s motion to compel is vacated.

14 Dated: October 29, 2018

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17 DEBORAH BARNES
18 UNITED STATES MAGISTRATE JUDGE
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28 ¹ Defendant’s subpoena to Dr. Bash also demanded the production of documents. (ECF No. 78
at 1.) That request shall also be complied with prior to Dr. Bash’s deposition.