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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ANTHONY CASSELLS,
Plaintiff,
v.
COUNTY OF SACRAMENTO, et al.,
Defendant.

No. 2:22-cv-1647 CKD P

ORDER

Plaintiff is proceeding pro se with an action for violation of civil rights under 42 U.S.C. § 1983. Defendant Dr. Nugent has filed a motion seeking leave to amend some of his responses to plaintiff’s requests for admission. It appears the original responses were prepared by Dr. Nugent’s counsel and were at least partially premised upon counsel’s misinterpretation of medical records. It appears counsel did not learn of Dr. Nugent’s actual role with respect to the treatment of plaintiff’s degenerative left-hip disease until speaking with Dr. Nugent in preparation for defendants’ pending motion for summary judgment.

Under Rule 36(b) of the Federal Rules of Civil Procedure, a court can permit a response to a request for admission to be withdrawn or amended if “it would promote the presentation of the merits of the action and if the court is not persuaded that it would prejudice the [non-moving] party in maintaining or defending the action on the merits.”

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1 The first prong favors Dr. Nugent. If Dr. Nugent is allowed to amend his responses to the
2 requests for admission, his defense, which appears to be in good faith, that he had little to no
3 involvement with respect to plaintiff's degenerative left-hip disease could be presented. This
4 promotes the presentation of the merits.

5 The second prong also favors Dr. Nugent. In light of the amended answers to requests for
6 admission, which have already been provided to the court (ECF No. 43-4), and the evidence
7 presented in defendants' pending motion for summary judgment, the court will permit plaintiff
8 time to conduct additional discovery concerning claim 4 in his pleadings as plaintiff requests in
9 his opposition to defendants' motion to amend. Also, the court will grant plaintiff leave to file a
10 motion to amend his pleadings with respect to that claim. While this will most likely extend the
11 life of this case, nothing suggests said extension will prejudice maintenance of the merits of
12 plaintiff's claims.

13 Accordingly, IT IS HEREBY ORDERED that:

14 1. Defendants' motion to amend Dr. Nugent's request for admission responses (ECF No.
15 43) is GRANTED;

16 2. Within 7 days, defendants shall serve Dr. Nugent's amended responses as reflected in
17 exhibit 4 attached to the motion to amend;

18 3. Defendants' pending motion for summary judgment (ECF No. 39) is
19 DENIED without prejudice;

20 4. Plaintiff's motion that the court set the motion for summary judgment for oral
21 argument (ECF No. 51) is DENIED without prejudice;

22 5. Plaintiff is granted 90 days to conduct discovery with respect to claim 4 of plaintiff's
23 complaint. In all other respects, discovery is closed. Any motions necessary to compel
24 discovery shall be filed within 90 days. All requests for discovery pursuant to Fed. R. Civ. P. 31,
25 33, 34 or 36 must be served within 30 days. Responses shall be served within 30 days of service;

26 6. Any motion to amend plaintiff's pleadings with respect to claim 4 must be filed by
27 June 2, 2025;

28 7. All pretrial motions, except motions to compel discovery, shall be filed on or before

1 July 1, 2025. Motions shall be briefed in accordance with paragraph 8 of this court's order filed
2 November 2, 2022.

3 Dated: January 28, 2025



CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE

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