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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

CARLOS CASTRO,

Plaintiff,

No. C 98-04877 WHA

v.

CAL TERHUNE, DIRECTOR, CALIFORNIA
DEPARTMENT OF CORRECTIONS, BONNIE G.
GARIBAY, J. BATCHELOR, S.C. WOLHWEND,
A. SCRIBNER, J. STOKES, M. YARBOROUGH,
L. HOOD, C. CAMPBELL, A.M. GONZALEZ, M.
AYALA, E. DERUSHA, C/O ROBERT L. AYERS,
WARDEN, J. MARTINEZ,

Defendants.

**ORDER GRANTING
DEFENDANTS' MOTION
TO ALLOW
SUPPLEMENTAL EXPERT
REPORTS RE WAIVED
DOCUMENTS**

On August 12, 2010, Defendants filed a motion to allow supplemental expert reports after the deadline for such reports (Dkt. No. 329). Defendants requested this extension specifically so that their experts could consider documents for which this Court deemed attorney-client privileged waived in an order on June 14, 2010 (Dkt. No. 290). Defendants were obviously aware of which documents they submitted to the Court for in camera review at that time, but were unaware of which documents were turned over to plaintiff pursuant to the Court's order until July 13, 2010. Defendants' motion papers represent that their experts have since prepared reports that consider the relevant documents, and that such reports were sent to plaintiff before depositions were taken, but not before the deadline for preparation of those reports had passed. Defendants' motion papers also represent that plaintiff would not stipulate that the reports should be allowed past the deadline.

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Defendants have a substantial justification for the late disclosure of their expert reports based on the relevant documents. Defendants have made an effort to keep this case's schedule on track, by providing all supplemental reports to plaintiff by August 6, 2010, in short order after they had the documents in hand and in time for full and fair deposition questioning. Defendants' motion is **GRANTED**. Defendants' expert reports will not be deemed late to the extent that they were provided by August 6, 2010.

IT IS SO ORDERED.

Dated: August 18, 2010.



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE