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15 UNITED STATES DISTRICT COURT
16 NORTHERN DISTRICT OF CALIFORNIA
17

18 TIO DINERO SESSOMS,

19 Plaintiff,

20 v.

21 R.N. HELEN THORNTON; R.N. FRANCES
SSEMPEBWA; DR. EDWARD BIRDSONG;
22 DR. KUMAR; DR. POMPAN; DR. JOHN
DOWBAK; DR. ELIZABETH B.
23 SCHNEIDER; DR. T.W. WY; DR. BRIGHT;
DR. A. ADAMS; G. ELLIS; RANDY
24 GROUNDS,

25 Defendants.
26

Case No. CV 13-0714 WHA (PR)

**STIPULATION AND ~~PROPOSED~~
ORDER TO EXTEND SUMMARY
JUDGMENT AND CASE
MANAGEMENT HEARING DATES
AND FILING DEADLINES**

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CASE No. cv13-00714 WHA (PR)

STIPULATION AND [PROPOSED] ORDER
TO EXTEND SUMMARY JUDGMENT AND
CASE MANAGEMENT DEADLINES

STIPULATION

1
2 Plaintiff Tio Dinero Sessoms and Defendant Darrin Bright, by and through their
3 undersigned counsel, respectfully request that the Court enter the following stipulation pursuant
4 to Federal Rule of Civil Procedure 6(b) and Civil Local Rule 6-2 for a brief extension of (1) the
5 opposition and reply brief deadlines and hearing date for Defendant’s motion for summary
6 judgment; and (2) the case management statement deadline and case management conference.

7 In support of this stipulation, the undersigned parties provide the following facts:

8 1. On May 5, 2015, this Court issued an order setting Defendants’ deadline to file a
9 supplemental motion for summary judgment on June 4, 2015. Due to the withdrawal of
10 Plaintiff’s former pro bono counsel, the Court referred the case to the Federal Pro Bono Project
11 and granted Plaintiff a four-week extension of the deadline to respond. The order also stated that
12 the Court “would also consider a reasonable motion to extend or to continue deadlines (where
13 good cause is shown) brought by new appointed pro bono counsel.” (Dkt. 91.)

14 2. On June 1, 2015, the Court appointed Ivor Samson, Bonnie Lau and Jessica
15 Duggan, all of Dentons US LLP, as pro bono counsel for Plaintiff pursuant to 28 U.S.C.
16 1915(e)(1) and the Court’s Federal Pro Bono Project guidelines. The Court set a briefing
17 schedule on Defendants’ motion for summary judgment, ordered the parties to file a joint case
18 management statement pursuant to Civil Local Rule 16-9 and also scheduled a case management
19 conference. (Dkt. 96.)

20 3. Defendant Bright filed a “Supplemental Motion for Summary Judgment” on
21 June 4, 2015. (Dkt. 98.)

22 4. Pursuant to the parties’ stipulation, this Court granted a brief extension of the
23 summary judgment and case management deadlines as follows: Plaintiff’s opposition brief due on
24 August 17, 2015; Defendant’s reply brief due on August 24, 2015; case management statement
25 due on September 3, 2015; and case management conference and hearing on Defendant Bright’s
26 Supplemental Motion for Summary Judgment to be held on September 10, 2015. (Dkt. 99.)
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1 5. Since being appointed as Pro Bono Counsel, Plaintiff’s counsel has been
2 diligently investigating the facts, including by propounding discovery requests and deposing
3 Defendant Bright last week, on July 29, 2015. A dispute has arisen between the parties regarding
4 Dr. Bright’s refusal to answer certain deposition questions, which may require motion practice.

- 5 • **Defendant’s position:** During the deposition, counsel for Defendant Bright
6 asserted objections to certain questions based on her assertions that the questions
7 were manifestly irrelevant or were attempting to illicit improper expert testimony
8 from a percipient witness, and instructed Defendant Bright not to answer those
9 questions. Defense counsel does not believe the questions are relevant, let alone
10 critical, to any issues presently before the Court.
- 11 • **Plaintiff’s position:** Plaintiff’s deposition questions directly relate to Defendant
12 Bright’s rationale for denying Plaintiff an MRI and are therefore critical to
13 Plaintiff’s opposition to the Supplemental Motion for Summary Judgment.
14 Plaintiff’s questions, which Defendant Bright refused to answer, regarding
15 Defendant’s understanding of Plaintiff’s history of his knee condition, the
16 circumstances in which a person would or would not receive an MRI for a
17 suspected torn meniscus and his understanding of the prison policies and
18 procedures are directly relevant to Defendant Bright’s decision to deny Plaintiff’s
19 MRI. In addition, Defendant’s counsel improperly instructed Defendant Bright
20 not to answer certain questions because they purportedly elicited “expert
21 testimony,” even though Defendant has admittedly previously relied on Defendant
22 Bright’s expert opinion regarding Plaintiff’s medical care. Plaintiff’s counsel has
23 prepared a motion to compel responses to those questions.
- 24 • The parties are currently in the process of meeting and conferring to potentially
25 resolve this discovery dispute without motion practice.

1 6. In addition, on the day of his deposition, Defendant Bright provided two additional
2 InterQual printouts documenting additional bases for Defendant Bright’s denial of the MRI, the
3 fundamental issue in this case. Plaintiff’s counsel promptly requested production of all InterQual
4 records pertaining to Plaintiff, which have not yet been produced by Defendant.

- 5 • **Plaintiff’s Position:** Defendant Bright has testified that the InterQual records
6 form the basis for his denial of Plaintiff’s MRI; accordingly, the other InterQual
7 records relating to Plaintiff may be equally relevant to the denial of the MRI and to
8 resolution of the pending summary judgment motion. Plaintiff’s document request
9 is neither overbroad nor irrelevant, given that the InterQual criteria is now the
10 claimed lynchpin of Defendant’s entire defense, and there is no question that the
11 request is reasonably calculated to lead to the discovery of admissible evidence.
- 12 • **Defendant’s Position:** Defendant’s counsel is currently working on producing
13 relevant documents responsive to Plaintiff’s request, with the understanding that
14 counsel may object to this request as being overbroad and manifestly irrelevant if
15 the documents pertain to conditions unrelated to the one issue remaining in this
16 case after the initial summary judgment motion: whether Dr. Bright was
17 deliberately indifferent to Plaintiff’s medical needs when Dr. Bright denied an
18 MRI of Plaintiff’s right knee because it did not meet the criteria to be considered
19 medically necessary as set forth in Title 15 and InterQual.

20 7. The parties are currently diligently working together to resolve their discovery
21 disputes regarding testimony and documents that go to the heart of the pending summary
22 judgment motion. Resolving these issues necessitate a brief continuance of the summary
23 judgment deadlines to accommodate the additional discovery and a potential motion to compel.
24 Good cause therefore exists to extend the opposition and reply deadlines and hearing date for
25 Defendant Bright’s Supplemental Motion for Summary Judgment, as well as the case
26 management statement deadline and case management conference.


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PROPOSED ORDER

Pursuant to Stipulation and for good cause shown,
IT IS SO ORDERED.

Dated: August 11, 2015.

BY: 
Hon. William Alsup
United States District Judge