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

TODD L. ASHKER,

Plaintiff,

v.

MICHAEL C. SAYRE, et al.,

Defendants.

No. 05-03759 CW

ORDER FOR
FURTHER REPORT
FROM DEFENDANT
CATE

On September 24, 2010, Defendant Matthew Cate filed a progress report in response to the Court's September 20, 2010 Order for Report from Defendant Cate in Accordance with the Court's February 4, 2010 Order for Specific Performance. In regard to the requirement that Plaintiff Todd Ashker receive a well-fitting arm brace, Defendant Cate reported that, in March, 2010, an orthotist saw Plaintiff and fitted him for an arm brace, which was delivered to Pelican Bay State Prison (PBSP) on May 24, 2010. The arm brace did not fit Plaintiff properly. On June 16, 2010, Plaintiff was examined by Dr. Gregory Duncan who noted that the arm brace did not fit properly and made recommendations for adjustments. Plaintiff refused to attend a "follow up ortho consult" stating, "I already

1 know what's going on with these." However, on July 23, 2010,
2 Plaintiff was re-examined by the orthotist, who said he would make
3 the adjustments recommended by Dr. Duncan. On August 26, 2010, the
4 adjusted arm brace was delivered to Plaintiff, who indicated that
5 it was still unsatisfactory. The orthotist made the adjustments
6 indicated by Plaintiff. On September 22, 2010, the re-adjusted arm
7 brace was delivered to Plaintiff.

8 In a further report, Defendant Cate must indicate the nature
9 of the "follow up ortho consult:" who Plaintiff was scheduled to
10 see and the purpose of the consultation, and documentation of
11 Plaintiff's refusal to attend it. Defendant Cate indicates that
12 Dr. Duncan's report is attached, but it does not appear on the
13 Court's electronic filing system. Defendant is to submit Dr.
14 Duncan's report with his further report. Also, Defendant Cate must
15 report whether the re-adjusted arm brace that was delivered to
16 Plaintiff on September 22, 2010 is satisfactory to Plaintiff.

17 In regard to the requirement that Defendant Cate refer
18 Plaintiff to a pain management specialist at University of
19 California (UC) at Davis, Defendant Cate reports that UC Davis was
20 unable to treat Plaintiff due to budget constraints, but he
21 successfully referred Plaintiff to see pain management consultants
22 Dr. Yu-Fan Zhang and Dr. Zhonghui Guan at UC San Francisco.

23 However, Plaintiff refused to attend a follow-up pain management
24 consultation stating, "I already know what's going on with these."

25 In a further report, Defendant Cate must provide the reports
26 from Drs. Zhang and Guan, including their recommendations for
27 Plaintiff's new medication prescription for pain. Defendant must

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1 explain the follow up pain management consultation -- with whom and
2 where was that to be -- and provide documentation of Plaintiff's
3 refusal to attend.

4 Defendant Cate must submit his further report within seven
5 days from the date of this order.

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7 IT IS SO ORDERED.

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9 Dated: September 29, 2010

Claudia Wilken

CLAUDIA WILKEN
United States District Judge

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1 UNITED STATES DISTRICT COURT
2 FOR THE
3 NORTHERN DISTRICT OF CALIFORNIA

4 TODD L. ASHKER,

5 Plaintiff,

6 v.

7 MICHAEL SAYRE, et al.,

8 Defendants.

Case Number: CV05-03759 CW

CERTIFICATE OF SERVICE

9 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court,
10 Northern District of California.

11 That on September 29, 2010, I SERVED a true and correct copy(ies) of the attached, by placing said
12 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said
13 envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located
14 in the Clerk's office.

15 Todd A. Ashker C58191
16 Pelican Bay State Prison
17 Box 7500
18 D1-119
19 Crescent City, CA 95532

20 Dated: September 29, 2010

21 Richard W. Wieking, Clerk
22 By: Ronnie Hersler, Adm. Law Clerk