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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA

10 TORRY BUCHANAN,

11 Plaintiff,

12 v.

13 DR. A. GARIKAPARTHI, DR. S.
14 ROBERTS,

15 Defendants.

Case No.: 15cv59-BEN-MDD

KLINGELE NOTICE,

**ORDER SETTING BRIEFING
SCHEDULE ON DEFENDANTS'
SUMMARY JUDGMENT MOTION,
and**

AMENDED SCHEDULING ORDER

[ECF No. 48]

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23 On June 27, 2017, Defendants filed a motion for summary judgment
24 (“MSJ”), with a hearing date of August 28, 2017. (ECF No. 48). The Court
25 hereby **VACATES** the August 28, 2017, hearing, enters the following
26 Briefing Schedule on the summary judgment motion, and enters the following
27 Amended Scheduling Order concerning upcoming pretrial dates.

1 **MSJ BRIEFING SCHEDULE**

2 The Court hereby **ORDERS** the parties to file briefs and supporting
3 papers and evidence as follows:

4 1. Plaintiff may file and serve his opposition, including any evidence,
5 to the matters raised by Defendants’ summary judgment motion (ECF No.
6 48) by **August 4, 2017**. If you do not wish to oppose Defendants’ motion, you
7 should file and serve a “Notice of Non-Opposition” by that same date to let
8 the Court know that Defendants’ motion is unopposed.

9 2. If you do file and serve an opposition, Defendants must file and
10 serve their reply to your opposition by **August 18, 2017**.

11 **KLINGELE NOTICE**

12 The following notice is required pursuant to *Rand v. Rowland*, 154 F.3d
13 952 (9th Cir. 1998) (en banc), cert. denied, 527 U.S. 1035 (1999) and *Klingele*
14 *v. Eikenberry*, 849 F.2d 409 (9th Cir. 1988), for all parties proceeding pro se:
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16 Defendants in this case have moved the Court to enter judgment for the
17 reasons raised in their summary judgment motion. (ECF No. 48). The Court
18 will consider the motion after giving you notice and opportunity to be heard.
19 A motion for summary judgment under Rule 56 of the Federal Rules of Civil
20 Procedure will, if granted, end your case.

21 Rule 56 of the Federal Rules of Civil Procedure tells you what you must
22 do in order to oppose a motion for summary judgment. Generally, summary
23 judgment must be granted when there is no genuine issue of material fact –
24 that is, if there is no real dispute about any fact that would affect the result
25 of your case – and where the party who asked for summary judgment is
26 entitled to judgment as a matter of law. When a party you are suing seeks
27 summary judgment and their position is properly supported by declarations

1 (or other sworn testimony), you cannot simply reply by restating what your
2 complaint says. Instead, you must set out specific facts in declarations,
3 depositions, answers to interrogatories, or authenticated documents that
4 contradict the facts shown in the Defendants' declarations and documents
5 and show that there is a genuine issue of material fact requiring trial. If you
6 do not submit your own evidence in opposition, summary judgment, if
7 appropriate, may be entered against you. If summary judgment is granted,
8 your case will be dismissed and there will be no trial.

9 10 **AMENDED SCHEDULING ORDER**

11 The Court hereby **ORDERS** as follows:

12 1. For bench trials before the Honorable Roger T. Benitez, the
13 parties shall file their Memoranda of Contentions of Fact and Law and take
14 any other action required by Civil Local Rule 16.1(f)(2) by **October 9, 2017**.
15 In jury trial cases before the Honorable Roger T. Benitez, neither party,
16 unless otherwise ordered by the Court, is required to file Memoranda of
17 Contentions of Fact and Law pursuant to Civil Local Rule 16.1(f)(2).

18 2. The parties shall comply with the pre-trial disclosure
19 requirements of Federal Rule of Civil Procedure 26(a)(3) by **October 9, 2017**.
20 Failure to comply with these disclosure requirements could result in evidence
21 preclusion or other sanctions under Federal Rule of Civil Procedure 37.

22 3. The parties shall meet and take the action required by Civil Local
23 Rule 16.1(f)(4) by **October 16, 2017**. At this meeting, the parties shall
24 discuss and attempt to enter into stipulations and agreements resulting in
25 simplification of the triable issues. The parties shall exchange copies and/or
26 display all exhibits other than those to be used for impeachment. The
27 exhibits shall be prepared in accordance with Civil Local Rule 16.1(f)(4)(c).

1 The parties shall note any objections they have to any other parties' Pretrial
2 Disclosures under Federal Rule of Civil Procedure 26(a)(3). The parties shall
3 cooperate in the preparation of the proposed pretrial conference order.

4 4. Counsel for Defendants will be responsible for preparing the
5 pretrial order and arranging the meetings of the parties pursuant to Civil
6 Local Rule 16.1(f). By **October 23, 2017**, Defendants' counsel must provide
7 Plaintiff with the proposed pretrial order for review and approval. Plaintiff
8 must communicate promptly with Defendants' attorney concerning any
9 objections to form or content of the pretrial order, and both parties shall
10 attempt promptly to resolve their differences, if any, concerning the order.

11 5. The Proposed Final Pretrial Conference Order, including
12 objections to any other parties' Federal Rule of Civil Procedure 26(a)(3)
13 Pretrial Disclosures shall be prepared, served and lodged with the assigned
14 district judge by **October 30, 2017**, and shall be in the form prescribed in
15 and comply with Civil Local Rule 16.1(f)(6).

16 6. The final Pretrial Conference is scheduled on the calendar of the
17 **Honorable Roger T. Benitez** on **November 6, 2017** at **10:30 a.m.**

18 7. A post trial settlement conference before a magistrate judge may
19 be held within 30 days of verdict in the case.

20 8. No other dates in prior Scheduling Orders in this case are
21 amended; all deadlines that have already expired remain expired.

22 **IT IS SO ORDERED.**

23 Dated: July 13, 2017

24 

25 Hon. Mitchell D. Dembin
26 United States Magistrate Judge
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