

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Magistrate Judge Michael J. Watanabe**

Civil Action No. 13-cv-01895-CMA-MJW

FTR - Courtroom A-502

Date: April 14, 2014

Courtroom Deputy, Ellen E. Miller

Parties

MARIO ANTON LEE,
#21047-001

Plaintiff(s),

v.

LIEUTENANT M. BANUELOS,
LIEUTENANT BARRY,
PRISON GUARD J. WISEMAN,
PRISON GUARD M. EBERHART,
PRISON GUARD ERPS,
PRISON GUARD MOHLER,
LIEUTENANT K. LITVAN,
CAROL LINGREN, RN,
R. HUDDLESTON, EMT,
OFFICER LEE,
LIEUTENANT MARTINEZ,
OFFICER ROY,
P. A. THOMPSON, and
McDERMOTT, MEDICAL (DIRECTOR),
in their official capacities, and
in their individual capacities,

Michael C. Johnson

Defendant(s).

COURTROOM MINUTES / MINUTE ORDER

HEARING: STATUS CONFERENCE

Court in Session: 10:32 a.m.

Court calls case. Appearances of *Pro Se* plaintiff and defense counsel.

The Second Amended Complaint [Docket No. 60, filed April 02, 2014] is the operative pleading. The Second Amended Complaint caption reflects fourteen (14) named defendants, however, in the body of his Second Amended Complaint (page 5 of 31), *Pro Se* Plaintiff lists a defendant (15) McDermott, Medical (Director).

It is ORDERED: **McDERMOTT, MEDICAL (DIRECTOR)** is added as a fifteenth defendant. The caption shall be amended to reflect the addition of defendant

McDermott, Medical (Director), sued in his individual and official capacity. Plaintiff shall forthwith serve this new defendant McDermott.

For clarification, the defendants named in the Second Amended Complaint are all sued in their OFFICIAL and INDIVIDUAL capacities, as in the Original Complaint [Docket No. 1, filed July 16, 2013] and the Amended Complaint [Docket No. 14, filed September 18, 2013].

Discussion is held regarding the Defendants' Motion for Summary Judgment for Failure to Exhaust Administrative Remedies [Docket No. 39, filed March 10, 2014]. Oral Motion to Withdraw this pending Motion for Summary Judgment, with leave to file a new Motion for Summary Judgment relating to the Second Amended Complaint. With no objections,

It is ORDERED: Defendants' ORAL MOTION TO WITHDRAW pending Motion for Summary Judgment is GRANTED,
and
Defendants' MOTION FOR SUMMARY JUDGMENT FOR FAILURE TO EXHAUST ADMINISTRATIVE REMEDIES [Docket NO. 39, filed March 10, 2014] is **WITHDRAWN**.

Defendants shall have up to and including **APRIL 28, 2014** within which to file a Motion for Summary Judgment relating to the Second Amended Complaint [Docket No. 60].

It is ORDERED: Discovery is STAYED until a ruling is entered on the anticipated Motion for Summary Judgment, to be filed on or before April 28, 2014.

It is ORDERED: Defendants shall have up to and including **twenty (20) days after** a ruling is entered on the anticipated Motion for Summary Judgment within which to file their Answer, if needed, to the Second Amended Complaint.

Hearing concluded.

Court in recess: 10:45 a.m.

Total In-Court Time 00: 13

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