UNITED STATES DISTRICT COURT DISTRICT OF MASSACHUSETTS

KEITH NIEMIC,

*

Plaintiff,

*

v. * Civil Action No. 13-11402-JLT

MASSACHUSETTS DEPARTMENT OF

CORRECTION, et al.,

*

Defendants.

*

ORDER

February 19, 2014

TAURO, J.

After reviewing the Parties' written submissions, this court hereby orders:

- 1. Plaintiff's Motion for Class Action Certification [#12] is DENIED. Plaintiff has not met the heavy burden of Federal Rule 23. Further, Plaintiff, who is pro se, may not appear for others in federal court.¹
- Plaintiff's Motion for Appointment of Counsel or Law Student for Trial and/or for Class
 Action Suit [#13], Supplemental Motion for Appointment of Counsel [#100], and Motion
 for Appointment of Counsel or Law Student for Depositions and Trial [#106] are all
 DENIED.
- 3. This court ACCEPTS and ADOPTS the January 29, 2014 Report and Recommendation [#108] of Magistrate Judge Collings. For the reasons set forth in the Report and Recommendation, this court hereby orders that Defendant UMass Correctional Health

¹ See, e.g., Herrera Venegas v. Sanchez-Rivera, 681 F.2d 41, 42 (1st Cir. 1982).

Services ("UMCH")'s <u>Motion to Dismiss</u> [#37] is ALLOWED IN PART and DENIED WITHOUT PREJUDICE IN PART. It is ALLOWED as to all claims asserted under 42 U.S.C. § 1983 and DENIED WITHOUT PREJUDICE as to all remaining claims.

- 4. Plaintiff's Emergency Request for Court Intervention [#101] is DENIED.
- 5. Defendants' Motion to Enlarge Time to Response [sic] [#104] is ALLOWED.

 Defendants shall file any motions to dismiss by February 28, 2014.
- 6. Plaintiff's Motion for Leave to Take Audio Depositions of the Defendants [#105] is DENIED. It is clear from Defendants' Opposition that Defendants have supplied Plaintiff with the documents and information he seeks. Audio depositions are unnecessary.
- 7. Plaintiff's Motion for Physical Examination [#107] is DENIED.
- 8. Plaintiff's Motion for an Extension of Time for Responding to This Court's 1-21-14

 Order [#110] is DENIED. Plaintiff must file his oppositions, if any, to Defendants'

 motions [#69, 84, 86, 90] by February 28, 2014, as Magistrate Judge Collings ordered on

 January 21, 2014. Magistrate Judge Collings generously gave Plaintiff more than a month

 to file these oppositions, which is longer than the time contemplated by the Federal Rules

 of Civil Procedure. Further, Plaintiff has not offered a good reason for an extension, and,

 given his multiple filings in this matter since January 21, he clearly has sufficient time to

 draft briefs for this case.
- Plaintiff's Motion for Leave to Order the DOC Defendants to Refrain from Confiscating
 Portions of Plaintiff's Outgoing Legal Mail [#111] is DENIED. It is not this court's role
 to "investigate," as Plaintiff requests.

IT IS SO ORDERED.

/s/ Joseph L. Tauro
United States District Judge