



1 procedures concerning inmate placement; (2) deliberate indifference for defendants' failure to place  
2 him in protective custody; (3) inadequate training and supervision of correctional officers in the use  
3 inmate call buttons; and (4) deliberate indifference for the treatment of injuries he sustained during  
4 an attack by another inmate. *See* Doc. #129. In opposition, defendants contend that the only issues  
5 remaining for trial are: (1) whether defendants' had knowledge that another inmate would attack  
6 Wisenbaker; and (2) failed to act upon that knowledge in protecting Wisenbaker from harm. *See*  
7 Doc. #128.

8         The court has reviewed the documents and pleadings on file in this matter and finds that the  
9 only remaining issue for trial is a deliberate indifference claim related to defendants' failure to  
10 properly train or supervise correctional officers in the use and monitoring of the prison's intercom  
11 system. In its order vacating summary judgment, the Ninth Circuit concluded that this court erred in  
12 "concluding that Wisenbaker presented no evidence that the defendants failed to properly supervise  
13 or train correctional officers. Wisenbaker presented evidence that there were no procedures or  
14 training on how to monitor or respond to the use of the prison's intercom system, creating a triable  
15 issue concerning whether the defendants properly supervised or trained officers." Doc. #125. On  
16 that basis alone, the Ninth Circuit remanded this action for the sole purpose of determining "in the  
17 first instance whether the failure to train amounted to deliberate indifference." *Id.* Thus, based on  
18 the sole issue remanded back to this court from the Ninth Circuit, the court finds that Wisenbaker  
19 only has a single claim for deliberate indifference remaining in this action related to defendants'  
20 failure to train or supervise correctional officers in the use of the prison intercom system. All other  
21 issues identified by the parties for trial in the proposed pretrial orders are not before the court.  
22 Accordingly, the court shall deny the parties' proposed pretrial orders in so far as they are  
23 inconsistent with the court's finding of the remaining issue for trial.

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IT IS THEREFORE ORDERED that plaintiff's proposed pretrial order (Doc. #129) is GRANTED in-part and DENIED in-part in accordance with this order.

IT IS FURTHER ORDERED that defendant's separately filed pretrial order (Doc. #128) is GRANTED in-part and DENIED in-part in accordance with this order.

IT IS FURTHER ORDERED that, in accordance with Local Rule 16-3, the parties shall file and submit a proposed pretrial order consistent with this order within thirty (30) days.

IT IS SO ORDERED.

DATED this 6th day of July, 2011.



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LARRY R. HICKS  
UNITED STATES DISTRICT JUDGE