

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

ANTHONY CROSS,	)	3:13-cv-00433-MMD-WGC
	)	
Plaintiff,	)	<b>ORDER</b>
	)	
vs.	)	
	)	
RON JAEGER,	)	
	)	
Defendant.	)	

---

Before the court are Defendant’s Notice of Compliance with Court Order (ECF No. 564) and In Camera Submission (ECF No. 565) and Plaintiff’s Response to Defendant’s Notice of In Camera Submission (ECF No. 567) and Response to Defendant’s Notice of Compliance with Court Order (ECF No. 568).

In Defendant’s “Notice” (ECF No. 564), Defendant states he “has submitted a copy of the documents used at trial as well as the documents received from OMD to demonstrate the information in the documents is the same. The documents have been submitted *in camera* for review by the Court as Exhibit B . . .” (ECF No. 564 at 3). The court assumes the “documents used at trial” was a reference to the six page Exhibit (Exhibit 511) regarding former inmate Medel’s Disciplinary Form II which was *not* included among Defendant’s submission; the court, however, was able to secure a copy of Exhibit 511. Exhibit B to Defendant’s *in camera* submission is substantially similar to - but not the “same” as - trial Exhibit 511.

The court fails to discern why Exhibit B was submitted *in camera* when Defendant represents it (Exhibit B) “is the same” as the trial exhibit. Defendant shall have until **noon, Friday, March 9, 2018**, to explain why Exhibit B, if it is the same trial Exhibit 511, was submitted *in camera*. Defendant

1 shall also explain where Exhibit B came from and how it came into the possession of Defendant's  
2 counsel (See ¶ 9, Collins Declaration, ECF No. 564-1 at 3).

3 Defendant's counsel should be aware that under LR IA 10-4, documents submitted *in camera*  
4 "must not be filed with the court, but must be delivered to chambers of the appropriate judge."  
5 Documents submitted *in camera* should not be filed "under seal" as Defendant has done in ECF No. 565.  
6 Documents filed *in camera* are not served on opposing parties; on the other hand, documents filed under  
7 seal are served LR IA 10-5(c) - unless an affidavit accompanies the under seal submission "showing  
8 good cause why the document has not been served on the opposing attorneys or pro se parties." (*Id.*)  
9 No such affidavit accompanied Defendant's "in camera submission" which was inappropriately filed  
10 under seal. Accordingly, if Defendant wishes to have Exhibit B remain in *in camera* status, Defendant  
11 should explain such and also file a motion for leave to file documents under seal if that is counsel's  
12 intention. LR IA 10-5(a).

13 The court instructs the Courtroom Administrator to set a hearing on the court's order (ECF No.  
14 563). The hearing will *not* address any alleged prejudice at trial to Plaintiff regarding the use of  
15 Exhibit 511 or the apparent failure to produce what has been submitted as Exhibit B. Instead, the hearing  
16 will only address Defendant's compliance with the terms and intent of this court's order of December 21,  
17 2016. (ECF No. 564.)

18 DATED: March 5, 2018.

19  
20   
21 

---

WILLIAM G. COBB  
22 UNITED STATES MAGISTRATE JUDGE  
23  
24  
25  
26  
27  
28