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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ANTHONY G. HERBERT,

Plaintiff,

v.

CARYN VERTUCCI, D.D.S., *et al.*,

Defendants.

Case No. C13-640-RSL

ORDER DENYING DEFENDANT
VERTUCCI'S MOTION FOR SUMMARY
JUDGMENT

The Court, having reviewed plaintiff's complaint, the parties' original summary judgment motion papers, the memorandum opinion of the Ninth Circuit, the parties' supplemental briefing on qualified immunity, the Report and Recommendation of the Honorable James P. Donohue, United States Magistrate Judge, and the remaining record, does hereby find and ORDER:

- (1) The Court adopts the Report and Recommendation.
- (2) Defendant Vertucci's motion for summary judgment (Dkt. 30) is DENIED with respect to plaintiff's claim that Dr. Vertucci was deliberately indifferent to his serious dental

ORDER DENYING DEFENDANT VERTUCCI'S
MOTION FOR SUMMARY JUDGMENT - 1

1 needs when she failed to extract multiple wisdom teeth in December 2011 as Dr. Vertucci has
2 not established that she is entitled to qualified immunity with respect to that claim.

3 (3) The parties are directed to meet and confer within thirty (30) days of the date of
4 this Order, and to submit a Joint Status Report not later than forty-five (45) days after the date of
5 this Order, specifically addressing:

6 (a) the expected length of trial;


7 (b) proposed trial dates;

8 (c) whether the case is to be tried to a jury or the Court; and

9 (d) whether all parties consent to having Magistrate Judge Donohue hear this case on
10 the merits, pursuant to 28 U.S.C. § 636(c).

11 (4) The Clerk is directed to send copies of this Order to plaintiff, to counsel for
12 defendant, and to the Honorable James P. Donohue.

13 Dated this 16th day of March, 2016.

14 

15 Robert S. Lasnik

16 United States District Judge