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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**

YONNEDIL CARROR TORRES,
et al.,

Plaintiff-Petitioners,

vs.

LOUIS MILUSNIC, in his capacity as
Warden of Lompoc, et al.,

Defendant-Respondents.

CASE NO. 2:20-cv-04450-CBM-PVCx

**ORDER GRANTING
PETITIONERS’ EX PARTE
APPLICATION TO MODIFY CASE
SCHEDULE AND AUTHORIZE DR.
VENTERS’ SITE VISIT**

Now before the Court is the *ex parte* application to modify the case schedule and authorize Dr. Venters’ site visit filed by Plaintiff-Petitioners (“Petitioners”) Yonnedil Carror Torres, Vincent Reed, Felix Samuel Garcia, Andre Brown, and Shawn L. Fears, individually and on behalf of all others similarly situated. (Dkt. No. 189 (the “application”).)

After consideration of all moving and opposition papers including arguments presented therein, as well as the entire record in this matter, this Court hereby **GRANTS** Petitioners’ application and orders as follows:

- I. The discovery and other pre-trial deadlines are revised as follows:
 - A. Fact and expert discovery completion no later than April 30, 2021;
 - B. Rule 56 motions shall be filed no later than May 10, 2021;

- 1 C. Opposition to Rule 56 motions shall be filed no later than May 24, 2021;
- 2 D. Reply in support of Rule 56 motion shall be filed no later than June 1, 2021;
- 3 E. Hearing on Rule 56 Motions set for June 15, 2021 at 10:00 a.m.;
- 4 F. Pre-Trial Conference set for July 13, 2021 at 10:00 a.m.; and
- 5 G. Trial to begin on August 24, 2021 at 10:00 a.m.

6 II. Petitioners shall be limited to seeking the following discovery:

- 7 A. Serving the following request for the production of documents: “All
8 Communications to, from, or copying the Warden and/or the Medical
9 Director of Lompoc regarding Respondents’ response to the COVID-19
10 pandemic.” The time limit for that request is January 1, 2020 to date,
11 using the following search terms “COVID*”, “coronavirus”,
12 “pandemic”, and “vaccin*”.¹
- 13 B. Deposing one Rule 30(b)(6) witness, limited to six topics; and
- 14 C. Deposing both of Respondents’ expert witnesses.

15 III. The court-appointed neutral expert, Dr. Homer Venters, shall complete a
16 second site visit of FCC Lompoc no later than April 21, 2021 and submit his
17 report no later than May 12, 2021.² The guidelines for Dr. Venters’ visit are
18 the following:

- 19 A. Upon request by Dr. Venters, Respondents will make staff available to
20 answer Dr. Venters’ questions regarding health care and the
21 institution’s Covid-19 response, including health care and custody staff.
22 Dr. Venters may interview other staff encountered on the tour as well.
23 Dr. Venters may interview prisoners, with their permission. These
24 interviews may be confidential at the request of Dr. Venters or the
25 prisoner.
- 26 B. During the site visit, photographs may be taken. All photographs will
27 be taken by Lompoc staff with Respondents’ digital camera, based on
28 the direction of Dr. Venters. Photographs may be taken of staff and
inmates only if they are not close enough to be recognizable, or do not
include faces or nametags, as this presents privacy and security
concerns. Photographs may further be blurred to ensure that no person
is identifiable. Following the inspection, Respondents will review the
photographs and will release them to Petitioners within five days of the

25 ¹ The * after COVID denotes that all documents with the exact word COVID and
26 any following character will be captured in the search. For example, the term
27 COVID* will capture not only COVID, but also COVID’s, COVID-19, COVID19,
28 etc.

² Respondents objections to the appointment of Dr. Venters as a neutral expert (Dkt.
No. 190) are OVERRULED.

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inspection, aside from any photographs that present security concerns. If any photographs present security concerns, the parties will meet and confer and attempt to resolve those concerns; the parties will raise any issue they cannot resolve with the Court. The parties may further file a protective order regarding the photographs taken during the site visit.

C. Upon request by Dr. Venters, Respondents will provide Dr. Venters with documentation requested by him, subject to any objections by either party. Any objection shall be made by written communication to the opposing party and the opposing party may challenge any objection by appropriate pleading filed with the Court. Any inmate health records provided by Respondents to Dr. Venters will not be disclosed to any other person or party, except Petitioners' counsel. The parties may further file a protective order regarding documentation requested by Dr. Venters. Any request for documentation must be initiated by Dr. Venters. The parties will meet and confer about any disputes about documentation, and if they reach an impasse on the issue, they may raise it with the Court.

D. On the site visit, Dr. Venters may walk through and observe all facilities, including but not limited to housing units, recreation areas, clinical space used for the provision of health care services, medical distribution areas, intake or screening areas, infirmaries or other inpatient or outpatient health care facilities, work areas, food service areas, locations where inmates attend classes or work on other projects, and any other locations where inmates congregate.

E. Dr. Venters will submit a report of his findings by no later than May 12, 2021. The parties may agree on other dates without seeking approval from the Court; provided, however, the parties shall notify the Court of any changes to the deadline for submitting the report.

F. Dr. Venters has been appointed as an expert under Federal Rule of Evidence 706. As such, *ex parte* communications between Dr. Venters and the parties' counsel regarding this case or Lompoc are prohibited. Any communications or calls between Dr. Venters and the parties' counsel must include counsel for both Petitioners and Respondents. This limitation does not prevent Dr. Venters from having any discussions with prison staff at Lompoc.

IT IS SO ORDERED.

DATED: March 22, 2021



Hon. Consuelo B. Mars
United States District Judge