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6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**  
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9 Sherman Terrell Pruitt,

10 Plaintiff,

11 v.

12 Charles L. Ryan, et al.,

13 Defendants.  
14

No. CV-13-02357-PHX-DJH (ESW)

**ORDER**

15 Plaintiff filed a pro se civil rights Complaint pursuant to 42 U.S.C. § 1983 on  
16 November 15, 2013 (Doc. 1). All issues were joined on April 15, 2015 (Docs. 21, 22,  
17 23). Plaintiff alleges a violation of his Eighth Amendment right to constitutionally  
18 adequate medical care. Pending before the Court is Plaintiff's First Request for  
19 Production of Documents (Doc. 51) which the Clerk of Court has docketed as a "Motion  
20 to Produce Documents."

21 Federal Rules of Civil Procedure Rule 5(d) states that "the following discovery  
22 requests and responses must not be filed until they are used in the proceeding or the  
23 court orders filing: depositions, interrogatories, requests for documents or tangible  
24 things or to permit entry onto land, and requests for admission." LRCiv 5.2 provides that  
25 "[a] 'Notice of Service' of the disclosures and discovery requests and responses listed in  
26 Rule 5(d) of the Federal Rules of Civil Procedure must be filed within a reasonable time  
27 after service of such papers."  
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1 Plaintiff propounds a number of requests for production in his document filed on  
2 January 14, 2016 (Doc. 51), which the Clerk of Court has docketed as a “Motion to  
3 Produce Documents by Sherman Terrell Pruitt.” Plaintiff has not “used” these  
4 discovery requests in the proceeding (e.g. by relying upon responses in support of a  
5 motion, supporting a motion to compel, etc.). Therefore, Plaintiff’s filing of the  
6 actual discovery requests instead of a “Notice of Service” is in violation of LRCiv  
7 5.2 and Rule 5(d) of the Federal Rules of Civil Procedure. Accordingly, the  
8 document docketed as “Motion to Produce Documents by Sherman Terrell Pruitt” (Doc.  
9 51) will be stricken.

10 The Court deems the January 14, 2016 filing date of Plaintiff’s First Request for  
11 Production of Documents (Doc. 51) to be the date of service on Defendants. By  
12 **February 17, 2016**, Plaintiff shall file a Notice of Service in compliance with LRCiv 5.2  
13 indicating that on January 14, 2016, Plaintiff served the First Request for Production of  
14 Documents on Defendants.

15 For the reasons set forth above,

16 **IT IS ORDERED** striking Plaintiff’s First Request for Production of Documents,  
17 docketed as “Motion to Produce Documents by Sherman Terrell Pruitt.” (Doc. 51).

18 **IT IS FURTHER ORDERED** that by **February 17, 2016**, Plaintiff shall file a  
19 Notice of Service in compliance with LRCiv 5.2 indicating that on January 14, 2016,  
20 Plaintiff served the First Request for Production of Documents on Defendants.

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22 Dated this 3rd day of February, 2016.

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27 Eileen S. Willett  
28 United States Magistrate Judge