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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

RODERICK WASHINGTON,

CASE NO. 1:03-cv-05263-SMS (PC)

Plaintiff,

ORDER DENYING DEFENDANTS’
MOTION FOR A PROTECTIVE ORDER
RE DISCOVERY

v.

RICHARD E. EARLY, et. al.,

(Docs. 131)

Defendants.

_____ /

Plaintiff, Roderick Washington, (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983.

On March 15, 2010, Defendants filed a motion for a protective order re discovery seeking to stay discovery pending disposition of any non-enumerated Rule 12 motion, or motion for summary judgment. (Doc. 131.) At that time, March 20, 2010 was the deadline for filing an unenumerated Rule 12(b) motion to dismiss. (Doc. 129.) Defendants sought and received an extension of time to file an unenumerated Rule 12(b) motion up to April 26, 2010. (Doc. 133.) To date, Defendants have not filed an unenumerated motion to dismiss under Rule 12(b). The deadline to amend pleadings is July 20, 2010, the discovery cut-off date is September 20, 2010, and the dispositive motion deadline is November 29, 2010. (Doc. 129.) Plaintiff is entitled to conduct discover to prepare for all of these pending deadlines.

While Defendants submitted the verbiage of one interrogatory and one request for production propounded by Plaintiff, they did not submit sufficient argument or evidence for the

1 Court to address their motion on any basis other than their anticipated filing of motions.
2 Defendants did not file an unenumerated motion to dismiss under Rule 12(b), and Plaintiff is
3 entitled to conduct discovery to prepare an opposition to any motion for summary judgment
4 which Defendants might file.

5 Based on the foregoing, Defendants' for a protective order re discovery, filed March 15,
6 2010, is HEREBY DENIED without prejudice.

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10 IT IS SO ORDERED.

11 **Dated:** May 17, 2010

/s/ Sandra M. Snyder
UNITED STATES MAGISTRATE JUDGE

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