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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA
FRESNO DIVISION

Fred W. Davis,)	No. 1:04-cv-06763-NWW
Plaintiff,)	ORDER
vs.)	
C. Ramey, et al.,)	
Defendant.)	

Before the Court is Defendants' Motion to Compel Plaintiff's Response to Document Request. (Doc. # 44.) By order of January 12, 2009 (doc. # 45), Plaintiff was ordered to respond to the Motion by January 30, 2009, and was explicitly warned that failure to timely respond would result in summary ruling on the Motion. That time to respond has expired, and no response has been filed.

Also before the Court is Defendants' Motion to Compel Plaintiff's Deposition and Request for Sanctions. (Doc. # 48, 49.) It seeks an order compelling Plaintiff to appear for his deposition, he having failed to appear for his scheduled January 16, 2009 deposition. The Motion states that Defendant agreed to reschedule the deposition to January 22, 2009. If Plaintiff did appear for deposition on January 22, 2009, this part of the motion is moot. If he did not appear, Defendant may move pursuant to Fed. R. Civ. P. 37(d)(1)(A)(i) for sanctions, without need for an order to appear for the deposition, if


1 Plaintiff failed to appear for his properly noticed deposition on January 22, 2009. Those
2 sanctions may include dismissal of the action.

3 IT IS THEREFORE ORDERED that Defendants' Motion to Compel Plaintiff's
4 Response to Document Request (doc. # 44) is granted. Plaintiff shall produce the
5 documents requested (doc. # 47) by February 13, 2009. If Plaintiff fails to do so, this
6 action will be dismissed with prejudice as sanctions pursuant to Fed. R. Civ. P.
7 37(b)(2)(A)(v).

8 IT IS FURTHER ORDERED that Defendants' Motion to Compel Plaintiff's
9 Deposition and Request for Sanctions (doc. # 48, 49) is denied without prejudice as moot
10 or as unnecessary to the extent it seeks an order to compel Plaintiff to give his properly
11 noticed deposition.

12 IT IS FURTHER ORDERED that Plaintiff respond by February 20, 2009, to the
13 portion of Defendants' Motion to Compel Plaintiff's Deposition and Request for Sanctions
14 (doc. # 48, 49) that seeks monetary sanctions against Plaintiff. If Plaintiff fails to respond
15 within that time, the monetary sanctions will be granted summarily.

16 DATED this 3rd day of February, 2009.

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Neil V. Wake
United States District Judge