

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

STEVEN VLASICH, 1:05-cv-01615-LJO-GSA-PC

Plaintiff,
v.
ORDER STRIKING PLAINTIFF'S MOTION TO
COMPEL AS UNTIMELY
(Doc. 122.)

DR. TIMOTHY FISHBACK, et al.,

Defendants.

Steven Vlasich ("Plaintiff") is a state prisoner in custody of the California Department of Corrections and Rehabilitation ("CDCR"), proceeding pro se and in forma pauperis with this civil rights action pursuant to 42 U.S.C. § 1983. This action now proceeds on the original complaint filed by Plaintiff on December 20, 2005, against defendants Dr. Timothy Fishback, Dr. Jesus Juarez, and Dr. Simon Villa, on Plaintiff's medical claims under the Eighth Amendment.¹ (Doc. 1.)

On May 5, 2008, the court issued a Discovery/Scheduling Order establishing deadlines of December 30, 2008 for completion of discovery, including motions to compel, and March 2, 2009 for the filing of dispositive motions. (Doc. 45.) On March 10, 2009, the court granted defendants' requests to modify the scheduling order and extended the deadline for completion of discovery to September 30, 2009, and the deadline for pretrial dispositive motions to January 30, 2010. (Docs.

¹ All other claims and defendants were dismissed from this action by the Court on November 5, 2007, for Plaintiff's failure to state a claim. (Doc. 28.)

1 78, 84, 95.) On November 25, 2009, Plaintiff filed a motion to compel discovery. (Doc. 122.) On
2 December 9, 2009, defendant Fishback filed an opposition to Plaintiff's motion. (Doc. 123.)

3 "The district court is given broad discretion in supervising the pretrial phase of litigation."
4 Johnson v. Mammoth Recreations, Inc., 975 F.2d 604, 607 (9th Cir.1992) (citation and internal
5 quotation marks omitted). On motion or on its own, the court may issue any just orders if a party or
6 its attorney fails to obey a scheduling or other pretrial order. Fed.R.Civ.P. 16(f)(1)(C).

7 Plaintiff's motion to compel discovery was filed nearly two months after the expiration of the
8 September 30, 2009 discovery deadline in this action. Plaintiff has not requested an extension of the
9 discovery deadline. Therefore, plaintiff's motion is untimely and shall be stricken.

10 Accordingly, IT IS HEREBY ORDERED that:

11 1. Plaintiff's motion to compel discovery, filed on November 25, 2009, is STRICKEN
12 as untimely; and
13 2. Discovery is closed in this action.

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15 IT IS SO ORDERED.

16 Dated: August 31, 2010

17 /s/ Gary S. Austin
18 UNITED STATES MAGISTRATE JUDGE
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