

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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

PUNAOFO TSUGITO TILEI

CASE NO. 1:06-cv-00776-OWW-GSA PC

Plaintiff,

**DISCOVERY ORDER**  
**SCHEDULING ORDER**

v.

T. WAN, et al.,

Unenumerated Rule 12(b) Motion Deadline - 03/30/09  
Deadline to Amend Pleadings - 07/30/09  
Discovery Cut-Off Date - 09/30/09  
Dispositive Motion Deadline - 11/30/09

Defendants.

Defendants Wan, Gallagher, and Cooper have answered the amended complaint filed on July 30, 2007. Pursuant to Federal Rules of Civil Procedure 1, 16, and 26-36, discovery shall proceed as follows:

1. Discovery requests shall be served by the parties pursuant to Federal Rule of Civil Procedure 5 and Local Rule 5-135, and shall only be filed when required by Local Rules 33-250(c), 34-250(c), and 36-250(c);

2. Responses to written discovery requests shall be due forty-five (45) days after the request is first served;

3. To ensure that the responding party has forty-five (45) days after the request is first served to respond, discovery requests must be served at least forty-five (45) days before the discovery deadline;

4. Pursuant to Federal Rule of Civil Procedure 30(a), defendants may depose plaintiff and any other witness confined in a prison upon condition that, at least fourteen (14) days before such

///

1 a deposition, defendants serve all parties with the notice required by Federal Rule of Civil Procedure  
2 30(b)(1); and

3 5. If disputes arise about the parties' obligations to respond to requests for discovery, the  
4 parties shall comply with all pertinent rules including Rules 5, 7, 11, 26, and 37 of the Federal Rules  
5 of Civil Procedure and Rules 11-110, 7-130, 7-131, 5-133, 5-135, 6-136, 43-142, and 78-230(m) of  
6 the Local Rules of Practice for the United States District Court, Eastern District of California.  
7 Unless otherwise ordered, Local Rule 37-251 shall not apply, and the requirement set forth in Federal  
8 Rules of Civil Procedure 26 and 37 that a party seeking relief from the court certify that he or she  
9 has in good faith conferred or attempted to confer with the other party or person in an effort to  
10 resolve the dispute prior to seeking court action shall not apply. Voluntary compliance with this  
11 provision of Rules 26 and 37 is encouraged, however. A discovery motion that does not comply  
12 with all applicable rules will be stricken and may result in imposition of sanctions.

13 Further:

14 6. The parties are advised that the deadline for filing motions to dismiss for failure to exhaust  
15 the administrative remedies pursuant to the unenumerated portion of Federal Rule of Civil Procedure  
16 12(b) shall be March 30, 2009;

17 7. The deadline for amending the pleadings shall be July 30, 2009;

18 8. The parties are advised that the deadline for the completion of all discovery, including  
19 filing motions to compel, shall be September 30, 2009;

20 9. The deadline for filing pre-trial dispositive motions shall be November 30, 2009;<sup>1</sup>

21 10. **A request for an extension of a deadline set in this order must be filed on or before**  
22 **the expiration of the deadline in question; and**

23 11. **Extensions of time will only be granted on a showing of good cause.**

24 IT IS SO ORDERED.

25 **Dated: January 22, 2009**

**/s/ Gary S. Austin**  
**UNITED STATES MAGISTRATE JUDGE**

26  
27  
28 <sup>1</sup> The pre-trial dispositive motion deadline does not apply to the filing of unenumerated Rule 12(b) motions to dismiss for failure to exhaust. Unenumerated Rule 12(b) motions for failure to exhaust must be filed on or before the deadline separately set forth in this order.