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6 **UNITED STATES DISTRICT COURT**

7 EASTERN DISTRICT OF CALIFORNIA

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9 ANTONIO FAHIE, CASE NO. 1:06-cv-01132-GSA PC

10 Plaintiff, ORDER DENYING MOTION FOR FURTHER
11 v. DISCOVERY

12 N. CORREA,
13 Defendant.

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15 Plaintiff Antonio Fahie is a state prisoner proceeding pro se and in forma pauperis in this
16 civil rights action pursuant to 42 U.S.C. § 1983. This matter is set for jury trial on May 18, 2009,
17 on Plaintiff's claim that Defendant N. Correa used excessive force against him, in violation of the
18 Eighth Amendment of the United States Constitution. On February 27, 2009, Plaintiff filed a motion
19 seeking further discovery. Defendant filed an opposition on March 17, 2009.

20 The discovery deadline in this case was July 28, 2008. An extension of time was granted by
21 order filed August 25, 2008, limited to Defendant serving a response to Plaintiff's requests for
22 admission and Plaintiff filing a motion to compel, if necessary. Although entitled a motion for
23 further discovery, Plaintiff now seeks an order compelling Defendant to produce the inmate appeals
24 filed against him for using excessive force. Plaintiff contends that Defendant did not produce the
25 documents in response to his discovery request.

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1 Plaintiff's motion to compel is untimely because it was not filed on or before July 28, 2008,
2 and is HEREBY DENIED on that ground.¹

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5 IT IS SO ORDERED.

6 Dated: April 14, 2009

7 /s/ Gary S. Austin
8 UNITED STATES MAGISTRATE JUDGE

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28 ¹ The motion is also procedurally deficient because it does not include a copy of the discovery request and
Defendant's response. In light of the untimeliness, however, that deficiency is irrelevant.