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**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA**

Alex Lamota Marti,  
Plaintiff,  
vs.  
F. Padilla, et al.,  
Defendants.

Case No.: 1:07-CV-00066-JMR

**ORDER**

Pending before the Court are several motions in which Plaintiff requests an extension of time to respond to Defendants' Motion for Summary Judgment under former Fed. R. Civ. P. 56(f), now amended Rule 56(d).<sup>1</sup> Defendants filed their Motion for Summary Judgment on July 29, 2010 (Doc. 173). In the event Plaintiff could not present facts essential to justify an opposition to Defendants' Motion for Summary Judgment, the Court gave Plaintiff 20 days after being served with the Motion to request that the Court order a continuance to enable affidavits to be obtained, depositions to be taken, or other discovery to be undertaken pursuant to Fed. R. Civ. P. 56(f). (See Order dated August 4, 2010, Doc. 176.) On August 16, 2010 Plaintiff moved for an order directing Defendants to serve another copy of their

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<sup>1</sup>Pursuant to the 2010 amendments to the Federal Rules, Rule 56(d) now contains the content of former Rule 56(f).

1 Motion for Summary Judgment (Docs. 188, 179<sup>2</sup>) and on August 20, 2010 Plaintiff moved  
2 for a stay of the summary judgment briefing deadlines until new and complete service of the  
3 Motion was made (Doc. 178). On August 18, 2010, Defendants filed a Declaration stating  
4 that a second set of Defendants' Motion for Summary Judgment and accompanying  
5 documents had been served on Plaintiff pursuant to his request. (See Declaration, Doc. 177.)  
6 Having been served with a new and complete copy of Defendants' Motion for Summary  
7 Judgment, on September 3, 2010 Plaintiff timely filed a motion for an 120-day extension of  
8 time to file his response pursuant to Rule 56(f)(2) (Doc. 180). As required by Rule 56(f),  
9 Plaintiff also provided an affidavit (Doc. 181) showing why without a continuance he could  
10 not present facts essential to justify an opposition to Defendants' Motion for Summary  
11 Judgment. Also on September 3, 2010, Plaintiff filed a motion for relief from the Court's  
12 Order dated March 30, 2010 (see Doc. 186). On September 13, 2010, Plaintiff filed a motion  
13 to compel (Doc. 187). On December 16, 2010, Plaintiff filed another motion for an extension  
14 of time to file a response to Defendants' Motion for Summary Judgment (Doc. 190).

15 The Court will grant Plaintiff's motions for an extension of time to respond to  
16 Defendants' Motion for Summary Judgment, pursuant to Rule 56(d). In addition to the  
17 several months that have elapsed since Defendants filed their Motion, Plaintiff will be given  
18 additional time "to obtain affidavits or declarations or to take discovery" in order to  
19 adequately respond to Defendants' Motion for Summary Judgment. FED. R. CIV. P. 56(d)(2).  
20 In the several months since Defendants filed their Motion for Summary Judgment, it appears  
21 as though Plaintiff has already had the opportunity to obtain additional affidavits and  
22 declarations. In addition, scattered throughout Plaintiff's various motions for extensions of  
23 time, declarations, motion to compel, and motions for relief are references to previously-  
24 denied motions to compel and various requests for discovery. Plaintiff also states that he  
25 plans to file additional motions to compel. Due to the number of filings and requests in this  
26 case, and in order to help the Court and Defendants identify which evidence, if any, Plaintiff  
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28 <sup>2</sup>On August 27, 2010 Plaintiff filed a duplicate copy of his Motion for an Order Seeking New and Complete Service (see Doc. 179).

1 claims he is entitled to but was denied through previous requests for discovery or motions  
2 to compel, the Court will require Plaintiff to file one, all-inclusive motion to compel which  
3 concisely lists all the evidence which Plaintiff continues to believe is necessary to adequately  
4 oppose Defendants' Motion. Plaintiff is reminded that his motion must conform to the Local  
5 Rules and the Federal Rules of Civil Procedure in form, length, and content, and must not  
6 merely refer to previous motions or previously-denied motions to compel. Plaintiff has until  
7 March 2, 2011 to file this motion. Once Plaintiff has filed his motion, Defendants will have  
8 20 days to file their response. Once the Court has ruled on the motion, a new deadline will  
9 be set for Plaintiff to respond to Defendants' Motion for Summary Judgment. If on the other  
10 hand, Plaintiff feels as though he has obtained enough facts to oppose Defendants' Motion  
11 for Summary Judgment, instead of filing a motion to compel, he shall file his response to  
12 Defendants' Motion by March 2, 2011.

13           Accordingly,

14           **IT IS ORDERED** that Plaintiff's motions for an extension of time to respond to  
15 Defendants' Motion for Summary Judgment (Docs. 180, 190) are **granted** to the extent that  
16 the Court will not require a response until after Plaintiff has been given the opportunity to  
17 obtain additional affidavits and declarations and all motions to compel have been ruled on  
18 by the Court.


19           **IT IS FURTHER ORDERED** that Plaintiff shall have up to and including **March**  
20 **2, 2011** to file one, all-inclusive **motion to compel** specifically identifying all the facts and  
21 evidence to which Plaintiff believes he is entitled in order to oppose Defendants' Motion and  
22 to which he has been denied access by Defendants in previous requests for discovery.  
23 Defendants shall have **20 days** from the filing date of Plaintiff's motion to file their response.  
24 If Plaintiff feels as though he has obtained enough information to oppose Defendants'  
25 Motion, instead of filing a motion to compel, he shall file his **response** to Defendants'  
26 Motion by **March 2, 2011**. Defendants shall have **20 days** from the filing date of Plaintiff's  
27 response to file their reply.  
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**IT IS FURTHER ORDERED** that Plaintiff's motions seeking new and complete service of Defendants' Motion for Summary Judgment (Docs. 188, 179) and Plaintiff's motion for a stay of the summary judgment briefing deadlines (Doc. 178) are **denied** as moot.

**IT IS FURTHER ORDERED** that Plaintiff's motion seeking relief from the Court's Order dated March 30, 2010 (Doc. 186) is **denied** in light of this order.

DATED this 28<sup>th</sup> day of January, 2011.

  
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Raner C. Collins  
United States District Judge