

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

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

Barry Louis Lamon,)	No. 1:07-CV-00829-DGC
Plaintiff,)	ORDER
vs.)	
Derral G. Adams, et al.,)	
Defendants.)	

Plaintiff Barry Lamon is confined in the California State Prison in Corcoran, California. He commenced this pro se prisoner civil rights action on May 3, 2007 (Dkt. #1), and filed a third amended complaint on March 4, 2009 (Dkt. #27). On April 10, 2009, the Court issued a screening order requiring answers to certain claims and dismissing the remaining claims without prejudice. Dkt. #28. Defendants filed an answer on August 3, 2009. Dkt. #40.

On August 17, 2009, the Court issued an order, pursuant to Rule 16 of the Federal Rules of Civil Procedure, requiring the parties, among other things, to meet and confer and prepare a joint case management report under Rule 26(f) and to exchange initial disclosures required by Rule 26(a)(1). Dkt. #43. Defendants have filed a motion for relief from that order. Dkt. #45. The Court will grant the motion in part and deny it in part.

Rule 26(a)(1)(B)(iv) provides that an action brought by an inmate proceeding pro se is exempt from initial disclosure requirements. The Advisory Committee Notes to Rule 26 make clear, however, that even in a case excluded by subdivision (a)(1)(B) “the court can

1 order exchange of similar information in managing the action under Rule 16.” Fed. R. Civ.
2 P. 26, Advisory Comm. Note (2000 Am.); *see Boles v. Lewis*, No. 1:07-cv-277, 2009 WL
3 2021743, at *2 (W.D. Mich. July 7, 2009) (requiring initial disclosures in pro se prisoner
4 civil rights action and noting that “the exceptions under subsection (a)(1)(B) do not apply
5 when a court order has been entered”); *see also In re Arizona*, 528 F.3d 652, 659 (9th Cir.
6 2008) (concluding that district court did not abuse its discretion in requiring the defendants
7 to investigate the substance of the pro se prisoner’s claims and to file a report containing their
8 findings).

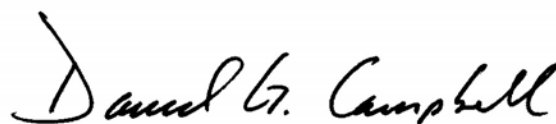
9 The Court finds that requiring the parties to comply with the initial disclosure
10 provisions of Rule 26(a)(1) will benefit the parties and the Court by allowing the early
11 identification of factual, legal, and evidentiary issues, and providing a forum and impetus for
12 frank discussion between the parties as to the relative strengths and weaknesses of their
13 cases. Given that Plaintiff’s complaint has been screened for frivolous or unsupported
14 claims, the Court finds that requiring Defendants to provide initial disclosures is not
15 unreasonable and will not be unduly burdensome. The Court will deny Defendants’ motion
16 to the extent they object to the initial disclosure requirement.

17 The Court agrees with Defendants that the parties should not be required to meet and
18 confer and prepare a joint case management report. The Court will grant Defendants’ motion
19 with respect to this issue.

20 **IT IS ORDERED:**

- 21 1. Defendants’ motion for relief from Court order (Dkt. #45) is **granted in part**
22 and **denied in part** as set forth in this order.
- 23 2. The Court will issue a separate scheduling order.

24 DATED this 31st day of August, 2009.

25
26 

27
28

David G. Campbell
United States District Judge