

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

BARRY LOUIS LAMON,

CASE NO: 1:07-cv-01390-LJO-GBC (PC)

Plaintiff,

ORDER DENYING DEFENDANTS’ MOTION
TO COMPEL DEPOSITION AND MOTION
FOR SANCTIONS

v.

DERRAL G. ADAMS, et al.,

(Doc. 65)

Defendants.

Barry Louis Lamon (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. This action was filed on September 21, 2007, and is proceeding on Plaintiff’s second amended complaint filed on April 8, 2009. (Docs. 1, 21, 30). Pursuant to the amended scheduling order filed on November 5, 2010, the deadline for the completion of discovery was March 1, 2011, and the deadline to file pretrial dispositive motions was April 1, 2011. On March 2, 2011, Defendants filed a motion to compel Plaintiff’s deposition and for sanctions. (Doc. 65). On March 17, 2011, Plaintiff filed an opposition and on March 21, 2011, Defendants filed a reply. (Docs. 68, 72).

Defendants gave notice of Plaintiff’s deposition scheduled for February 24, 2011, at 10:00 a.m. via video teleconference. (Doc. 65-2, Ex. B). Plaintiff attended the deposition, however, Plaintiff repeatedly failed to cooperate with answering the questions. (Doc. 65-1, Exhibit A at 25, 56-62, 70-71). Plaintiff argues that the Court should not entertain Defendants’ motion since it is untimely. Defendants did not motion the Court for an extension prior to the discovery deadline nor did Defendants request an extension nunc pro tunc. Rather, in their reply, Defendants argue that the

1 Court should still entertain the untimely motion due to Defendants' counsel being "unaware" of the
2 deadline and counsel's illness. (Doc. 72). Defendants have failed to demonstrate good cause for
3 failure to timely request an extension of the deadline. Based on the foregoing, it is HEREBY
4 ORDERED that Defendants' motion to compel and for sanctions, filed March 2, 2011 is DENIED.

5
6 IT IS SO ORDERED.

7 Dated: June 24, 2011

8 
UNITED STATES MAGISTRATE JUDGE