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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

NICOLAS MORAN,

Plaintiff,

v.

JOHN DOVEY, et al.,

Defendants.

CASE NO. 1:08-cv-00016-GBC (PC)

ORDER DENYING MOTION TO COMPEL
WITH PREJUDICE

(Docs. 80, 81)

Plaintiff Nicolas Moran ("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 is proceeding on Plaintiff's second amended complaint, filed on November 18, 2008. (Docs. 20, 29, 30). Plaintiff filed a motion to compel on August 2, 2010. (Docs. 80, 81). Defendants filed an opposition on September 7, 2010. (Doc. 88). The motion has been deemed submitted. Local Rule 78-230(m).

“Parties may obtain discovery regarding any nonprivileged matter that is relevant to any party’s claim or defense Relevant information need not be admissible at the trial if the discovery appears reasonably calculated to lead to the discovery of admissible evidence.” Fed. R. Civ. P. 26(b)(1). The responding party is obligated to respond to the interrogatories to the fullest extent possible, Fed. R. Civ. P. 33(b)(3), and any objections must be stated with specificity, Fed. R. Civ. P. 33(b)(4). The responding party shall use common sense and reason. *E.g., Collins v. Wal-Mart Stores, Inc.*, No. 06-2466-CM-DJW, 2008 WL 1924935, *8 (D. Kan. Apr. 30, 2008). A responding party is not generally required to conduct extensive research in order to answer an interrogatory, but a reasonable effort to respond must be made. *L.H. v. Schwarzenegger*, No. S-06-

1 2042 LKK GGH, 2007 WL 2781132, *2 (E.D. Cal. Sep. 21, 2007). Further, the responding party
2 has a duty to supplement any responses if the information sought is later obtained or the response
3 provided needs correction. Fed. R. Civ. P. 26(e)(A).

4 If Defendants object to one of Plaintiff's discovery requests, it is Plaintiff's burden on his
5 motion to compel to demonstrate why the objection is not justified. In general, Plaintiff must inform
6 the Court which discovery requests are the subject of his motion to compel, and, for each disputed
7 response, inform the Court why the information sought is relevant and why Defendants' objections
8 are not justified.

9 In this instance, Plaintiff motioned to compel the production of documents and interrogatories
10 which he served on Defendant G. Garza. Since Plaintiff's request for documents was granted in a
11 previous order filed on March 23, 2011, Plaintiff's request for document production is DENIED as
12 moot. In response to Plaintiff's motion to compel, Defendants argue that Plaintiff's failure to
13 comply with the meet and confer requirement of Rule 37 of the Federal Rules of Civil Procedure
14 defeats Plaintiff's motion to compel. However, the Court's discovery order filed on April 28, 2010,
15 states:

16 Unless otherwise ordered, Local 5 Rule 251 shall not apply, and the requirement set
17 forth in Federal Rules of Civil Procedure 26 and 37 that a party seeking relief from
18 the court certify that he or she has in good faith conferred or attempted to confer
19 with the other party or person in an effort to resolve the dispute prior to seeking court
20 action shall not apply.

19 (Doc. 62). Nevertheless, Plaintiff has not met his burden on his motion to compel. Plaintiff has not
20 specified which of Defendant's responses to the interrogatories were deficient, how were each of the
21 responses deficient and why the information sought was relevant. For the third interrogatory, for
22 example, Plaintiff's question was vague as to whether Defendant Garza ever met Plaintiff, whether
23 Defendant Garza worked at a particular prison on the date in question, whether Defendant Garza
24 came into contact with Plaintiff and what was the nature of any physical contact. Accordingly,
25 Defendant Garza's response was vague. Moreover, it is uncertain from Plaintiff's motion whether
26 interrogatories from Defendant Hill were at issue. Because the discovery deadline is extended, and
27 since Plaintiff has only used eight interrogatories, Plaintiff is not precluded from drafting new
28 interrogatories towards his limit of twenty-five interrogatories.

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As set forth herein, it is HEREBY ORDERED that:

1. Plaintiff's first motion to compel further response to interrogatories, filed August 2, 2010, is DENIED with prejudice.
2. Plaintiff's first motion for documents, filed August 2, 2010, is DENIED as MOOT.

IT IS SO ORDERED.

Dated: March 29, 2011


UNITED STATES MAGISTRATE JUDGE