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

Phillip Dunn
Plaintiff,
vs.
Matthew Cate, et al.,
Defendants.

No. CV-08-0873-NVW

ORDER

Before the Court is Plaintiff’s Motion to Compel (Doc. 56). The Court issued a discovery and scheduling order on February 4, 2010. As noted by Defendants, the order stated that all discovery had to be completed, and all motions to compel had to be filed on or before June 11, 2010. The order also stated that all written requests for discovery had to be served on the opposing party no later than forty-five days before the discovery cutoff date to allow the responding forty-five days to respond.

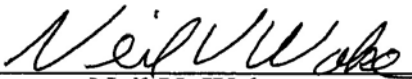
Plaintiff served a request for admissions and a set of interrogatories on May 27, 2010, and a motion to compel the responses to those requests on July 19, 2010. On May 27, 2010, Plaintiff’s request for admissions and interrogatories were already late as the deadline was forty-five days before the discovery cutoff, or April 28, 2010. Plaintiff’s Motion to Compel was similarly filed well past the discovery deadline. Plaintiff has provided no explanation for his tardiness, nor did he previously seek to extend the discovery deadlines. This case is already two years old. In light of Plaintiff’s failure to

1 explain his failure to comply with the Court's deadlines and in order to avoid further
2 delay, the Court will deny Plaintiff's motion to compel Defendants to respond to his
3 discovery requests.

4 The Court will also deny Plaintiff's request that the Court prohibit Defendants from
5 filing a motion for summary judgment. The Court already granted Defendants an extension
6 of time to file a motion for summary judgment. Defendants have not had an opportunity to
7 file a dispositive motion on the merits of Plaintiff's allegations after conducting discovery.
8 Plaintiff has not provided a legal or equitable basis for denying Defendants the opportunity
9 to file a motion for summary judgment.

10 IT IS THEREFORE ORDERED that Plaintiff's Motion to Compel (Doc. 56) is
11 denied.

12 DATED this 28th day of July, 2010.

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16 Neil V. Wake
17 United States District Judge
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