

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

**SERGIO ALEJANDRO GÁMEZ,**

Plaintiff,

**v.**

**F. GONZALEZ, et al.,**

Defendants.

Case No.08cv1113 MJL (PCL)

**ORDER SETTING BRIEFING  
SCHEDULE ON PLAINTIFF'S  
MOTION TO COMPEL  
DISCOVERY**

Plaintiff Sergio Alejandro Gámez ("Plaintiff") is a state prisoner proceeding *pro se* and *in forma pauperis* with an action filed pursuant to 42 U.S.C. § 1983. (See Doc. No. 13.) On September 21, 2010, the Court held a Telephonic Status Conference in this matter. Appearing were Michael Terhorst on behalf of Defendants and Plaintiff appeared *in pro se*. The parties were unable to settle the matter on this date and Plaintiff was given until September 30, 2010 to file his intended Motion to Compel Discovery.

On September 29, 2010, Plaintiff filed a Motion to Compel Discovery in compliance with the Court's verbal Order of September 21, 2010.<sup>1/</sup> (Doc. No. 50.) If Defendants oppose Plaintiff's Motion, any opposition to the granting of the Motion shall be served and filed by the responding party on or before November 2, 2010. See L. R. 78-230(l).

Moreover, a responding party who has no opposition to the granting of any Motion shall

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1. Although the Motion to Compel was received by the Clerk of the Court on October 11, 2010, this Court determines that the Motion was timely filed pursuant to the Court's Order because the date of September 29, 2010 appears on the Proof of Service. See Anthony v. Cambra, 236 F.3d 568, 575 (9th Cir. 2000) (applying Houston v. Lack, 487 U.S. 266, 276 (1988)), in which the Supreme Court held that a notice of appeal by a pro se prisoner is deemed filed at the moment the prisoner delivers it to prison authorities for forwarding to the clerk of court).

1 serve and file a statement to that effect, specifically designating the motion in question. Id. The  
2 parties should note that failure of the responding party to file an opposition or to file a statement  
3 of non opposition may be deemed a waiver of any opposition to the granting of the motion and  
4 may result in the imposition of sanctions. Id.

5 Plaintiff may serve and file a Reply to any Opposition on or before November 9, 2010.  
6 Id. This Motion will be deemed submitted on November 9, 2010 or on the date a Reply is filed,  
7 whichever comes first. See L. R. 135. Unless otherwise ordered by the Court, the Motion shall  
8 be deemed submitted on the papers and no personal appearances are required.

9 DATED: October 13, 2010

A handwritten signature in black ink, appearing to read "R. A. [unclear]", is written over a horizontal line.

U.S. Magistrate Judge  
United States District Court

13 cc: The Honorable M. James Lorenz  
14 All Parties and Counsel of Record