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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

DANNY JAMES COHEA,

Plaintiff,

v.

D. ADAMS, et al.,

Defendants.

CASE NO. 1:08-cv-01186-LJO-BAM PC

ORDER ADDRESSING PLAINTIFF'S
REQUEST FOR CLARIFICATION

(ECF No. 84)

Plaintiff Danny James Cohea, a state prisoner proceeding pro se and in forma pauperis, filed this civil rights action pursuant to 42 U.S.C. § 1983 on August 13, 2008. This action is proceeding on the complaint, filed August 13, 2008, against Defendants Adams, Jones, Vela-Lopez and Kush.¹ Following Defendants Adams, Jones, and Vela-Lopez filing an answer to the complaint, a discovery and scheduling order issued on December 9, 2009 opening discovery and setting deadlines for the parties. On January 31, 2011, an amended discovery and scheduling order issued setting the discovery cut-off date for April 15, 2011.

Following Defendant Kush filing an answer to the complaint, on June 6, 2011, a discovery and scheduling order issued as to Plaintiff's claims against Defendant Kush. The dates for the discovery and scheduling order issued for Defendants Adams, Jones, Kush, and Vela-Lopez remained unchanged. The discovery cut-off date for Defendant Kush is December 12, 2011 and

¹On August 3, 2011, Defendant Hicinbothem was dismissed for Plaintiff's failure to effect service of process. (ECF No. 74.)

1 dispositive motions are due January 17, 2012.

2 Accordingly, all discovery as to Defendants Adams, Jones, and Vela-Lopez had to be
3 completed by April 15, 2011, and dispositive motions were to be filed by September 6, 2011.
4 Defendants Adams, Jones, and Vela-Lopez filed their motion for summary judgment on August 30,
5 2011 and it is currently pending before the Court. Plaintiff is incorrect in stating that the June 6,
6 2011, discovery and scheduling order has been superceded by subsequent orders of the Court.
7 Additionally, Defendant Kush is not in contempt of the order of the Court by joining in the summary
8 judgment motion prior to the deadline set for him in the scheduling order. The parties have been
9 conducting discovery in this action since December 9, 2009, and the claims against Defendant Kush
10 are similar to those against the remaining defendants. If Plaintiff felt that additional discovery was
11 needed prior to opposing the motion for summary judgment he merely needed to file a motion for
12 an extension of time to respond setting forth good cause for the continuance prior to the date his
13 response was due.

14 IT IS SO ORDERED.

15 **Dated: November 23, 2011**

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE