

**UNITED STATES DISTRICT COURT**  
EASTERN DISTRICT OF CALIFORNIA

EUGENE HAMILTON,

1:08-cv-01967-OWW-GSA-PC

Plaintiff,

ORDER DENYING PLAINTIFF'S  
MOTION FOR LEAVE TO CONDUCT  
DISCOVERY  
(Doc. 30.)

v.

LARA, et al.,

Defendants.

Eugene Hamilton ("plaintiff") is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed this action on December 29, 2008. (Doc. 1.) On May 9, 2011, Plaintiff filed a motion for leave to conduct discovery. (Doc. 30.) On May 23, 2011, Defendants filed an opposition. (Doc. 31.)

Discovery has not yet commenced in this action. The Court will establish a discovery schedule at a later stage of the proceedings by issuing a scheduling order which shall be served upon all parties to this action.<sup>1</sup> Until then, the parties may not conduct discovery. Therefore, Plaintiff's request for leave to conduct discovery is premature and shall be denied as such.

Accordingly, IT IS HEREBY ORDERED THAT Plaintiff's request for leave to conduct discovery is DENIED as premature.

IT IS SO ORDERED.

**Dated: May 27, 2011**

**/s/ Gary S. Austin**  
UNITED STATES MAGISTRATE JUDGE

<sup>1</sup>As a rule, the discovery phase for an action such as Plaintiff's will be commenced by the Court after an Answer to the Complaint is filed. In this action, Defendants responded to the Complaint by filing a Motion to Dismiss, which is pending, and no Answer has been filed.