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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JOSHUA J. CANTU,

Plaintiff,

v.

M. GARCIA, et al.,

Defendants.

CASE NO. 1:09-cv-00177-AWI-GBC (PC)

ORDER GRANTING PLAINTIFF’S MOTIONS
TO COMPEL

Docs. 49, 50

ORDER GRANTING PLAINTIFF’S MOTIONS
TO MODIFY SCHEDULING ORDER

Doc. 51, 52

REVISED DEADLINE TO AMEND
PLEADINGS: NOVEMBER 13, 2012

REVISED DISCOVERY DEADLINE:
JANUARY 14, 2013

REVISED DISPOSITIVE MOTION
/ DEADLINE: MARCH 14, 2013

On January 15, 2009, Plaintiff Joshua J. Cantu (“Plaintiff”), a state prisoner proceeding pro se, filed this civil rights action pursuant to 42 U.S.C. § 1983. Doc. 1. On July 26, 2010, Plaintiff filed an amended complaint. Doc. 12. On November 29, 2010, the Court found a cognizable Eighth Amendment claim for excessive force against M. Garcia and failure to intervene excessive force against three doe defendants. Doc. 14. On January 3, 2012, the Court issued a discovery and scheduling order, setting a deadline to amend pleadings of July 3, 2012, a discovery deadline of September 3, 2012, and a dispositive motion deadline of November 13, 2012. Doc. 25.

On March 23, 2012, Defendant Garcia filed a motion for a twenty-one (21) day extension of time to respond to Plaintiff’s discovery requests from February 9, 2012. Doc. 47. In Defendant’s motion, counsel stated that she had been very ill. *Id.* On April 10, 2012, the Court granted

1 Defendant's motion for extension of time to respond to Plaintiff's discovery requests. Doc. 48.

2 On May 11, 2012 and May 14, 2012, Plaintiff filed a motion to compel, stating Defendant
3 had not responded to his discovery requests from February 9, 2012. Docs. 49, 50. In Plaintiff's
4 motions, he does not reference the Court's order granting an extension of time, so it is unclear
5 whether Plaintiff filed his motions after waiting for Defendant's extended time to respond. *Id.*

6 On July 5, 2012, Plaintiff filed a motion to extend time to amend pleadings regarding the Doe
7 Defendants. Doc. 51. In Plaintiff's motion, he states that he has not received a response to his first
8 set of interrogatories and requests for production of documents. *Id.* Plaintiff states that he has filed
9 a motion to compel, which is pending in this Court *Id.* Plaintiff states that he needs the discovery
10 to identify the Doe Defendants. *Id.* Plaintiff does not include the date he submitted the first set of
11 interrogatories and requests for production of documents, but it appears that Plaintiff is referring to
12 the same set of original interrogatories from February 9, 2012. *See id.*

13 On August 13, 2012, Plaintiff filed a motion to extend the discovery deadline. Doc. 52. In
14 Plaintiff's motion, he again states that he has not received any discovery responses from Defendant.
15 *Id.*

16 Defendant did not respond to Plaintiff's four (4) pending motions. This matter is deemed
17 submitted pursuant to Local Rule 230(1).

18 Plaintiff contends that he has never received responses to his original discovery requests from
19 February 9, 2012. Docs. 49, 50, 51, 52. Defendant did not respond to Plaintiff's assertion. Thus, the
20 Court has no record that Defendant has ever submitted discovery responses to Plaintiff. Therefore,
21 the Court GRANTS Plaintiff's motions to compel responses to Plaintiff's original first set of
22 interrogatories and requests for production of documents from February 9, 2012.

23 Considering Plaintiff has not received any responses to discovery, the Court will grant his
24 motions to modify the scheduling order. Since the Court is extending the deadline to amend
25 pleadings and the discovery deadline, the Court also finds it necessary to extend the dispositive
26 motion deadline.

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1 Accordingly, it is HEREBY ORDERED that:

- 2 1. Plaintiff's motions to compel are GRANTED, as to Plaintiff's original first set of
3 interrogatories and requests for production of documents from February 9, 2012;
- 4 2. Defendants are DIRECTED to respond to Plaintiff's original discovery requests from
5 February 9, 2012;
- 6 3. Plaintiff's motions to modify the scheduling order are GRANTED;
- 7 4. The revised deadline to amend pleadings is November 13, 2012;
- 8 5. The revised discovery deadline is January 14, 2013; and
- 9 6. The revised dispositive motion deadline is March 14, 2013.

10
11 IT IS SO ORDERED.

12 Dated: September 12, 2012

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14 UNITED STATES MAGISTRATE JUDGE