

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

BARRY LOUIS LAMON,

CASE NO. 1:09-cv-00205-LJO-SKO PC

Plaintiff,

ORDER GRANTING EXTENSION OF TIME TO
FILE OPPOSITION TO DEFENDANTS'
MOTION FOR SUMMARY JUDGMENT

v.

DERRAL ADAMS, et al.,

(Doc. 49)

Defendants.

Plaintiff Barry Louis Lamon ("Plaintiff") is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. On September 16, 2010, Plaintiff filed a motion to strike Defendants' motion for summary judgment or, alternatively, grant Plaintiff a thirty (30) day extension of time to file an opposition. (Doc. #49.)

Plaintiff requests that the Court "delay issue of any ruling on the defendant's motion for summary judgment because discovery has not been concluded and defendant's motion is therefore premature." (Pl.'s Ex Parte Mot. to Strike Def.'s Mot. for Summ. J.; Alternatively, to Grant Pl. 30 Days from Close of Discovery to File His Opp'n 1:27-2:3, ECF No. 49.) Plaintiff also argues that he will not have access to the law library until September 20, 2010, and requires additional time to file an opposition.

Plaintiff has not set forth any proper grounds for striking Defendants' motion for summary judgment. If Plaintiff believes that Defendants' motion for summary judgment is improper, he must set forth his arguments in an opposition. The Court will provide Plaintiff with an extension of time to file an opposition to Defendants' motion for summary judgment.

1 The Court notes that the parties are not required to wait until discovery closes to file a motion
2 for summary judgment. Pursuant to Federal Rule of Civil Procedure 56(f), a party may oppose the
3 motion for summary judgment by filing an affidavit that sets forth specific reasons why that party
4 cannot present facts essential to justify an opposition unless further discovery can be undertaken.
5 In this case, the discovery deadline has already passed. The only outstanding discovery dispute is
6 Plaintiff's July 26, 2010, motion "to augment" his previous motion to compel. (Doc. #43.) The
7 motion is not entirely clear, but appears to request the Court to order Defendants to provide Plaintiff
8 with a copy of his deposition transcript. Plaintiff has not explained why he needs a copy of his own
9 deposition transcript to oppose Defendants' motion for summary judgment. Accordingly, it is
10 unclear how resolution of that motion would have any impact on Plaintiff's ability to file his
11 opposition to the summary judgment motion. The Court finds that Plaintiff has failed to identify any
12 specific reasons why he is unable to present facts essential to prepare his opposition.

13 The Court will grant Plaintiff a thirty (30) day extension of time to prepare his opposition
14 because of Plaintiff's claimed inability to access the law library. Accordingly, Plaintiff is ordered
15 to submit his opposition within thirty (30) days of the date of service of this order. **No further**
16 **extensions of time will be granted.**

17 Based on the foregoing, it is HEREBY ORDERED that Plaintiff's September 16, 2010,
18 motion is PARTIALLY GRANTED. Plaintiff's opposition to Defendants' motion for summary
19 judgment is due within thirty (30) days of the date of service of this order. Plaintiff's request to
20 strike Defendants' motion for summary judgment is DENIED.

21
22 IT IS SO ORDERED.

23 **Dated: November 30, 2010**

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE