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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ALLEN B. WILLIAMS,

CASE NO. 1:09-cv-00468 LJO JLT PC

Plaintiff,

ORDER DENYING PLAINTIFF’S MOTION TO
COMPEL DISCOVERY AND FOR SANCTIONS

v.

(Doc. 75)

MATTHEW CATE, et al.,

Defendant.

I. Procedural History

Plaintiff Allen B. Williams (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. This action is proceeding on the first amended complaint for violations of the First Amendment and 42 U.S.C. § 2000cc-1 (Religious Land Use and Institutionalized Persons Act of 2000, (“RLUIPA”) and on equal protection grounds (Doc. 71 at 4 and Docs. 17 and 19.) On April 22, 2010, the Court issued its scheduling order setting forth the deadline of December 22, 2010, to complete all discovery, including filing motions to compel. (Doc. 38.) Discovery is currently closed in this action.

On July 1, 2010, Plaintiff filed a motion to compel to compel responses to his discovery requests, (Doc. 53), which the Court denied as moot on February 10, 2011. (Doc. 67.) Plaintiff’s

1 original motion was denied as a result of the Court's order of June 29, 2010, (Doc. 51), which
2 ordered that Defendants could delay in responding Plaintiff's discovery requests until after the
3 Court's ruling on Defendants June 22, 2010 motion to dismiss. (Doc. 67.) However, the Court's
4 February 10, 2011 provided that if Plaintiff was not satisfied with Defendant's discovery responses,
5 the Court would allow Plaintiff to file a later motion to compel. (Doc. 67 at 1-2.)

6 On May 9, 2011, after Defendant had served responses, Plaintiff filed a renewed motion to
7 compel discovery which includes a request for sanctions based on Plaintiff's claim that Defendant's
8 responses were not truthful.¹ (Doc. 75.) On August 31, 2011, Defendants filed an opposition to
9 Plaintiff's motion. (Doc. 91.)

10 **II. Motions to Compel**

11 In the instant motion, Plaintiff alleges that Defendant's provided only partial responses to
12 his discovery requests and that several of the responses were not truthful. While Plaintiff identifies
13 the specific interrogatory responses and responses to requests for production that he feels are
14 insufficient, he fails to address why he believes any of the responses are deficient. A motion to
15 compel must be accompanied by a copy of Plaintiff's discovery requests at issue and a copy of
16 Defendant's responses to the discovery requests. Further, as the moving party, Plaintiff bears the
17 burden of informing the Court which discovery requests are the subject of his motion to compel and,
18 for each disputed response, why Defendant's objection is not justified. Ellis v. Cambra, No. CIV
19 02-05646-AWI-SMS PC, 2008 U.S. Dist. LEXIS 109050, 2008 WL 860523, at *4 (E.D.Cal.
20 Mar.27, 2008). Plaintiff may not simply assert that he has served discovery requests, that he is
21 dissatisfied, and that he wants an order compelling further responses.

22 **III. Plaintiff's request for sanctions for Defendants' lack of candor and cooperation**

23 Plaintiff asserts that the responses provided by Defendants Wegman, Howard, and Gonzales
24 are untrue and requests the Court order sanctions against these Defendants for their "lack of candor,
25 compliance, and cooperation." (Doc. 75 at 2-4.) Plaintiff's motion states that Defendant Wegman's

26
27 ¹Plaintiff also apparently is attempting to move for reconsideration of the Court's previous orders
28 dismissing certain defendants. (Doc. 75 at 3.) Plaintiff's motion to compel is not an appropriate motion with which
to assert these arguments and the Court will accordingly disregard Plaintiff's assertions in this regard.

1 responses to interrogatories 15, 16, 17, 20, 21, 23, 24, and 25 are untrue. (Id. at 2.) In addition,
2 Plaintiff asserts that Defendant’s Howard’s responses to interrogatories 5 and 9 and Defendant’s
3 Gonzales responses to interrogatories 6, 7, and 9 are also not truthful. (Id. at 3-4.)

4 The Court derives the power to impose sanctions on parties or their counsel from three
5 primary sources of authority. “(1) Federal Rule of Civil Procedure 11, which applies to signed
6 writings filed with the court, (2) 28 U.S.C. § 1927, which is aimed at penalizing conduct that
7 unreasonably and vexatiously multiplies the proceedings, and (3) the court’s inherent power.” Fink
8 v. Gomez, 239 F.3d 989, 991 (9th Cir. 2001).

9 Under Rule 11 a party has an affirmative duty to investigate the law and facts prior to filing.
10 Rachel v. Banana Republic, Inc., 831 F.2d 1503, 1508 (9th Cir. 1987). Whether to impose sanctions
11 is determined by the reasonableness of the inquiry into the law and facts. G.C. & K.B. Investments
12 v. Wilson, 326 F.3d 1096, 1109 (9th Cir. 2003).

13 The Court has inherent power to sanction parties or their attorneys for improper conduct.
14 Chambers v. Nasco, Inc., 501 U.S. 32, 43-46 (1991); Roadway Express, Inc. v. Piper, 447 U.S. 752,
15 766 (1980); Fink v. Gomez, 239 F.3d 989, 991 (9th Cir. 2001). The imposition of sanctions under
16 the court’s inherent authority is discretionary. Air Separation, Inc. v. Underwriters at Lloyd’s of
17 London, 45 F.3d 288, 291 (9th Cir. 1995). The court’s “inherent power ‘extends to a full range of
18 litigation abuses.’” Fink, 239 F.3d at 992 (quoting Chambers, 501 U.S. at 46-47). However, in order
19 to sanction a litigant under the court’s inherent powers, the court must make a specific finding of
20 “bad faith or conduct tantamount to bad faith.” Fink, 239 F.3d at 994.

21 Plaintiff’s assertions regarding the truthfulness of Wegman’s and Howard’s responses are
22 conclusory and fail to explain why he believes that the responses are untruthful. As to Defendant
23 Gonzales, though Plaintiff attempts to explain why Gonzales’ responses to Interrogatories Nos. 6 and
24 9 are untrue, Plaintiff’s explanation lacks merit.

25 Plaintiff’s Interrogatories Nos. 6 and 9, propounded to Defendant Gonzales stated:

26 Plaintiff’s Interrogatory No. 6

27 Is your accounting and use of the allotted budgets for KVSP Inmate Programs and Operations
28 in accordance with the law, and the contracts of non-discrimination, for federal funds/grants

1 you have received?

2 Defendant's Gonzales' Response to Interrogatory No. 6

3 Defendant objects to this interrogatory as vague as to time and place, not relevant to this
4 Defendant, and not reasonably calculated to lead to the discovery of admissible evidence.
Subject to and without waiving the foregoing objections, Defendant answers as follows:

5 My job duties do not include supervising or use of any budgets.

6 Plaintiff's Interrogatory No. 9

7 Were there any separate religious Diet/Food budgets for any particular faith groups for the
8 years 2005, 2006, 2007, 2008, 2009, and 2010?

9 Defendant's Response to Interrogatory No. 9

10 Defendant objects to this interrogatory as vague as to place, overbroad, not reasonably
11 calculated to lead to the discovery of admissible evidence and compound with improper
subpart. Subject to and without waiving the foregoing objections, Defendant answers as
follows:

12 Assuming this interrogatory refers to KVSP, yes.

13 Plaintiff contends that since Defendant Gonzales stated that her job does not include the supervising
14 or use of any budget in his response to Interrogatory No. 6, her admission regarding the existence
15 of separate budgets for calendar years 2005 through 2010, (in response to Plaintiff's Interrogatory
16 No. 9) reflects that she was not telling the truth. The Court finds that Plaintiff's argument simply
17 does not support his claim that the responses lack candor. The fact that Defendant does not
18 supervise or use any budgets does not mean that she is unaware that certain budgets exist.

19 Based on the foregoing the Court does not find that Defendants submitted perjured responses
20 to Plaintiff's discovery requests and Plaintiff's request for sanctions is **DENIED**.

21 **IV. Order**

22 Accordingly, it is HEREBY **ORDERED**:

- 23 1. Plaintiff's motion to compel (Doc. 75), filed May 9, 2011, is **DENIED**;
24 2. Plaintiff's request for sanctions, is **DENIED**.

25
26 IT IS SO ORDERED.

27 Dated: December 14, 2011

28 /s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE