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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

LARRY TATE,
Plaintiff,
vs.
MATTHEW CATE, et al.,
Defendants.

Case No. 1:09-cv-00770 JLT (PC)
ORDER DISCHARGING ORDER TO SHOW
CAUSE
(Doc. 40)
ORDER STRIKING PLAINTIFF’S MOTION
TO COMPEL AND PLAINTIFF’S REQUEST
FOR INVESTIGATION PAPERS
(Docs. 36 & 45)

Plaintiff is a state prisoner proceeding pro se and in forma pauperis with a civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff has two matters pending before the Court.

I. MOTION TO COMPEL

On March 30, 2011, Plaintiff filed a motion to compel the production of documents. (Doc. 36.) When Defendant failed to file an opposition to the motion, the Court issued an order to show cause and instructed Defendant to either file an opposition or statement of non-opposition to Plaintiff’s motion. (Doc. 40.) On May 9, 2011, Defendant filed an opposition. (Doc. 42.) Therein, Defendant contends that Plaintiff never served any discovery requests on Defendant prior to the filing of the instant motion to compel. (Id. at 1.) In addition, Defendant notes that James Yates is no longer a party to this action and therefore any discovery directed at him is improper. (Id. at 2.)

Plaintiff is advised that discovery requests must be served on and directed at Defendant first;

1 copies of discovery requests should not be filed with the Court. Plaintiff may file a motion to compel
2 only after he receives an unsatisfactory response to a discovery request from Defendant. Because it
3 appears here that the instant motion to compel was filed prematurely, it will be stricken.

4 **II. REQUEST FOR INVESTIGATION PAPERS**

5 On May 6, 2011, Plaintiff filed a request for “investigation papers” regarding Appeal #PVSP-B-
6 00841. (Doc. 45.) Again, Plaintiff is advised that discovery requests must be served on Defendant and
7 not filed with the Court. This request will be stricken.

8 **III. CONCLUSION**

9 In accordance with the above, it is **HEREBY ORDERED** that:

- 10 1. The Court’s April 27, 2011 order to show cause (Doc. 40) is **DISCHARGED**;
- 11 2. Plaintiff’s March 30, 2011 motion to compel (Doc. 36) is **STRICKEN**; and
- 12 3. Plaintiff’s May 6, 2011 request for investigation papers (Doc. 45) is **STRICKEN**.

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15 IT IS SO ORDERED.

16 Dated: May 18, 2011

/s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE

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