

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

FLOYD SCOTT,

Plaintiff,

v.

J. PALMER, et al.,

Defendants.

CASE NO. 1:09-cv-01329-LJO-SKO PC

ORDER DENYING MOTION TO COMPEL,
WITHOUT PREJUDICE

(Doc. 101)

Plaintiff Floyd Scott, a state prisoner proceeding pro se, filed this civil rights action pursuant to 42 U.S.C. § 1983 on July 29, 2009. Pending before the Court is Plaintiff's motion to compel, filed on October 29, 2012. Fed. R. Civ. P. 37(a). Defendants filed an opposition on January 10, 2013, Plaintiff filed a reply on February 8, 2013, and the motion has been submitted upon the record. Local Rule 230(l).

As set forth in the order issued by the Honorable Lawrence J. O'Neill on February 21, 2013, the filing of Defendants' vexatious litigant motion on June 22, 2012, had the effect of staying this action pending resolution of the motion, which occurred on December 21, 2012. Local Rule 151(b); Cal. Civ. Proc. § 391.6 (West 2013). As a result, Defendants were not obligated to respond to Plaintiff's discovery requests during the pendency of their motion, and Plaintiff's motion to compel was prematurely filed. In addition, Plaintiff is not entitled to reasonable expenses incurred in bringing his motion to compel. Fed. R. Civ. P. 37(a)(5)(A).

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1 Accordingly, Plaintiff's motion to compel, filed on October 29, 2012, is HEREBY
2 ORDERED DENIED as premature.

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4 IT IS SO ORDERED.

5 **Dated: February 22, 2013**

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE