

## UNITED STATES DISTRICT COURT

## EASTERN DISTRICT OF CALIFORNIA

9 FLOYD SCOTT, CASE NO. 1:09-cv-01329-LJO-SKO PC  
10 Plaintiff, ORDER DENYING MOTION TO COMPEL,  
11 v. WITHOUT PREJUDICE  
12 J. PALMER, et al., (Doc. 101)  
13 Defendants.

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

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

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

IT IS SO ORDERED.

**Dated:** February 22, 2013

/s/ Sheila K. Oberto  
UNITED STATES MAGISTRATE JUDGE