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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

BILAL AHDOM,)	1:09-cv-01874-AWI-BAM (PC)
)	
Plaintiff,	)	ORDER DENYING DEFENDANTS’
	)	MOTION TO COMPEL RESPONSES TO
v.	)	INTERROGATORIES, AND REQUESTS
	)	FOR DOCUMENTS WITHOUT PREJUDICE
S. LOPEZ, et al.,	)	TO REILING (ECF No. 67.)
)	
Defendants.	)	ORDER DENYING DEFENDANTS’
	)	MOTION TO DETERMINE SUFFICIENCY
	)	OF ANSWERS OR OBJECTIONS
	)	WITHOUT PREJUDICE TO REILING
	)	(ECF No. 68)
)	
)	

Plaintiff Bilal Ahdom (“Plaintiff”), a state prisoner proceeding pro se and in forma pauperis, filed this civil rights action pursuant to 42 U.S.C. § 1983. On March 31, 2012, the Court screened Plaintiff’s first amended complaint pursuant to 28 U.S.C. § 1915A, and found that it stated an Eighth Amendment claim against Defendants Araich, Chen, Shittu, Ashby, S. Lopez, Spaeth, and Schaefer for deliberate indifference to his medical needs. (ECF No. 31.) Following service of the first amended complaint, the Court opened discovery in this matter on July 23, 2012. (ECF No. 39.)

On November 8, 2012, Defendant Ashby filed a motion to dismiss. (ECF No. 53.)

On March 25, 2013, Defendants Lopez, Shittu, Chen, Araich, Schaefer, and Spaeth moved to compel Plaintiff to provide responses to their interrogatories and requests for

1 production. (ECF No. 67.) Defendants also filed a motion for an order to determine the
2 sufficiency of Plaintiff's responses to Defendants' requests for admission, set one, and to have
3 the matters ordered admitted. (ECF No. 68.)

4 On April 4, 2013, the Court vacated the scheduling order until the complaint had been
5 finalized in this matter. (ECF No. 70.)

6 On June 26, 2013, the Court granted Defendant Ashby's motion to dismiss and granted
7 Plaintiff leave to amend his claim for deliberate indifference in violation of the Eighth
8 Amendment against Defendant Ashby. (ECF No. 74.)

9 On August 29, 2013, Plaintiff filed his second amended complaint, which named
10 Defendant Ashby as the sole defendant. (ECF No. 77.) As Plaintiff only named Defendant
11 Ashby in his second amended complaint, it was unclear whether Plaintiff understood that he
12 could continue to pursue his claims against all defendants following the motion to dismiss or
13 whether he intended to proceed in this action solely against Defendant Ashby. Accordingly, on
14 September 3, 2013, the Court directed Plaintiff to inform the Court if (1) he intended to proceed
15 only against Defendant Ashby; or (2) he intended to proceed against Defendants Araich, Chen,
16 Shittu, S. Lopez, Spaeth and Schaefer, along with Defendant Ashby, for deliberate indifference
17 to his medical needs and he required additional time to file a third amended complaint. (ECF
18 No. 78.)

19 On September 20, 2013, Plaintiff informed the Court that he intended to proceed against
20 Defendants Araich, Chen, Shittu, S. Lopez, Spaeth and Schaefer, along with Defendant Ashby.
21 Plaintiff therefore requested a forty-five day extension of time to November 1, 2013, to file a
22 third amended complaint. (ECF No. 81.)

23 On November 18, 2013, Plaintiff filed his third amended complaint. (ECF No. 90.)
24 Thereafter, on December 2, 2013, Defendants Araich, Chen, Lopez, Shittu and Spaeth filed a
25 motion to dismiss Plaintiff's third amended complaint for failure to state a claim. (ECF No. 95.)
26 Defendants Schaefer and Ashby also filed motions to dismiss. (ECF Nos. 94, 96.) Plaintiff has
27 been granted an extension of time to March 17, 2014, to file his oppositions to the motions to
28 dismiss.

1 Based on the unsettled nature of the operative complaint and the absence of a scheduling
2 order, the Court finds it appropriate to deny the pending discovery motions without prejudice to
3 refiling, if necessary, after the motions to dismiss are resolved, the complaint is finalized and a
4 new discovery and scheduling order is issued. Accordingly, IT IS HEREBY ORDERED as
5 follows:

- 6 1. Defendants' motion to compel responses to interrogatories and requests for
7 production of documents, filed on March 25, 2013, is DENIED WITHOUT
8 PREJUDICE to refiling, if necessary and appropriate, following resolution of the
9 pending motions to dismiss; and
- 10 2. Defendants' motion to determine sufficiency of answers or objections, filed on March
11 25, 2013, is DENIED WITHOUT PREJUDICE to refiling, if necessary and
12 appropriate, following resolution of the pending motions to dismiss.

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14 IT IS SO ORDERED.

15 Dated: February 27, 2014

16 /s/ Barbara A. McAuliffe
17 UNITED STATES MAGISTRATE JUDGE
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