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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

BILAL AHDOM,)	1:09-cv-01874-AWI-BAM (PC)
)	
Plaintiff,)	ORDER DIRECTING DEFENDANTS TO
)	FILE A REPLY REGARDING PENDING
v.)	DISCOVERY MOTIONS
)	
S. LOPEZ, et al.,)	(ECF Nos. 170, 171, 172, 173)
)	
Defendants.)	THIRTY-DAY DEADLINE
)	
)	
)	

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. This action proceeds on Plaintiff’s claims against Defendants Schaefer, Araich, Chen, Shittu, and Ashby for deliberate indifference to serious medical needs in violation of the Eighth Amendment.

A. Jurisdiction

In February 2016, Defendants filed various discovery motions that remain pending. Although there is an interlocutory appeal pending, the Court is not divested of jurisdiction to address these motions. See Britton v. Co-op Banking Grp., 916 F.2d 1405, 1412 (9th Cir. 1990) (“an appeal of an interlocutory order does not ordinarily deprive the district court of jurisdiction except with regard to the matters that are the subject of the appeal”); Alice L. v. Dusek, 492 F.3d 563, 564–65 (5th Cir. 2007) (an interlocutory appeal “only divests the district court of

1 jurisdiction over those aspects of the case on appeal.”). The interlocutory appeal relates solely to
2 Plaintiff’s requests for preliminary injunctive relief and a temporary restraining order, not to
3 matters of discovery.

4 B. Pending Discovery Motions

5 On February 18, 2016, Defendant Ashby filed a motion to compel certain discovery
6 responses. (ECF No. 170.) On February 29, 2016, Defendants Araich, Chen, and Shittu filed two
7 motions to compel certain discovery responses, (ECF Nos. 171, 173), and a motion to determine
8 the sufficiency of answers or objections, (ECF No. 172). Plaintiff did not respond to the motions.

9 On April 20, 2016, the Court ordered Plaintiff to file an opposition or statement of non-
10 opposition to Defendants’ motions, listed above. (ECF No. 175.) Plaintiff was permitted thirty
11 (30) days from the date of service of that order to comply. (Id. at 2.)

12 On June 3, 2016, Plaintiff filed a motion, entitled “Motion Requesting Pardon for
13 Mistake in Interpreting this Court’s 4/20/16 Order and Requesting Another Opportunity to File
14 the Correct Response to Defendants’ Motions.” (ECF No. 179.) In that motion, Plaintiff
15 explained that on or about May 19, 2016, he mistakenly mailed to the Court his responses to
16 Defendants’ discovery requests in lieu of an opposition or statement of non-opposition. The
17 discovery responses were returned to him on or around May 27, 2016, at which point he realized
18 he misinterpreted the Court’s order, and subsequently filed this motion. Plaintiff requests another
19 opportunity to respond to the pending discovery motions, based on his attempt to comply and
20 mistake and confusion.

21 On September 15, 2016, Plaintiff was granted thirty days to file an opposition or
22 statement of non-opposition to Defendants’ discovery motions. In that order, the Court indicated
23 its hope that Plaintiff had sent Defendants some discovery responses that may have eliminated
24 some or all of the parties’ discovery disputes. The Court also indicated that resolution of such
25 disputes without Court intervention was preferred. (ECF No. 184.)

26 On October 17, 2016, Plaintiff filed a statement asserting that he posed “no opposition to
27 the [defendants’] motion to compel discovery.” (ECF No. 190.) Despite Plaintiff’s statement of
28 non-opposition, it is unclear whether Plaintiff served Defendants with any responses to their

1 discovery requests and, if so, whether those responses resolved any or all pending discovery
2 disputes. To date, Defendants have not filed replies to Plaintiff's statement of non-opposition or
3 provided any other information regarding the pending discovery motions.

4 Accordingly, Defendants are HEREBY ORDERED to file a reply regarding their
5 respective discovery motions listed above, (ECF No. 170, 171, 172, and 173), within thirty (30)
6 days from the date of this order. Defendants' replies should clearly indicate whether Plaintiff's
7 discovery responses, if any, have resolved some, none or all of the pending discovery disputes,
8 or whether the parties have resolved the disputes without the necessity of Court intervention.

9
10 IT IS SO ORDERED.

11 Dated: July 11, 2017

12 /s/ Barbara A. McAuliffe
13 UNITED STATES MAGISTRATE JUDGE
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