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**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

LEONARDO JOSEPH RANGEL,

CASE NO. 1:10-cv-01790-BAM PC

Plaintiff,

ORDER DENYING PLAINTIFF’S MOTION TO COMPEL AND FOR SANCTIONS (ECF Nos. 31, 34)

v.

JAMES TILTON, et al.,

ORDER GRANTING IN PART AND DENYING IN PART PLAINTIFF’S MOTION TO MODIFY THE SCHEDULING ORDER AND EXTENDING THE DEADLINE TO FILE AN AMENDED COMPLAINT TO DECEMBER 15, 2012 (ECF No. 32)

Defendants.

\_\_\_\_\_/ FORTY-FIVE DAY DEADLINE

Plaintiff Leonardo Joseph Rangel is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. An order issued on May 4, 2012, opening discovery in this action. (ECF No. 25.) On July 30, 2012, Plaintiff filed a motion to compel. (ECF No. 31.) On September 4, 2012, Plaintiff filed a motion for an extension of the deadlines in the discovery and scheduling order. (ECF No. 32.) After an order issued directing Defendant to respond, an opposition was filed on September 24, 2012. (ECF No. 34.)

Plaintiff moves for an order compelling Defendant Latraille to respond to his interrogatories and requests for production of documents. Plaintiff states that he propounded the discovery on May 22, 2012, and has not received a response. (Motion to Compel 2,<sup>1</sup> ECF No. 31.) Defendants oppose the motion on the ground that the interrogatories and requests for production which they received

<sup>1</sup>All references to pagination of specific documents pertain to those as indicated on the upper right corners via the CM/ECF electronic court docketing system.

1 from Plaintiff were served on April 3, 2012, prior to the opening of discovery in this action.  
2 Defendants assert they did not receive the discovery dated May 22, 2012. (Opp. 2, ECF No. 34.)

3 A review of the documents submitted by defendant does show that the proof of service was  
4 executed on April 3, 2012, prior to discovery being open in this action. (ECF No. 34 at 11, 18.)  
5 Accordingly, Plaintiff's motion to compel and for sanctions is denied. Defendant Latraille is ordered  
6 to serve responses to Plaintiff's interrogatories and request for production, attached to his motion  
7 to compel, within forty-five days.

8 Plaintiff requests a modification of the deadline in the scheduling order due to the failure of  
9 Defendant to respond to his requests for production. The deadline for discovery in this action is  
10 January 4, 2012. The Court does not find good cause to extend the discovery cut-off date at this  
11 time. Plaintiff may file a motion to amend the discovery deadline if good cause exists as the  
12 deadline approaches. Plaintiff's motion sets forth good cause to modify the amended pleading  
13 deadline, and the Court shall partially grant the motion to modify the scheduling order.

14 Based on the foregoing, IT IS HEREBY ORDERED that:

- 15 1. Plaintiff's motion to compel and for sanctions, filed July 31, 2012, is DENIED;
- 16 2. Plaintiff's motion to amend the scheduling order, filed September 4, 2012, is  
17 GRANTED IN PART AND DENIED IN PART as follows:
  - 18 a. The deadline to file an amended complaint shall be December 15, 2012;
  - 19 b. All other deadlines shall remain;
- 20 3. Within forty-five days from the date of service of this order, Defendant Latraille shall  
21 serve responses to Plaintiff's interrogatories and request for production of documents  
22 included as exhibits in his motion to compel.

23 IT IS SO ORDERED.

24 **Dated: October 15, 2012**

/s/ Barbara A. McAuliffe  
UNITED STATES MAGISTRATE JUDGE