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**UNITED STATES DISTRICT COURT**  
EASTERN DISTRICT OF CALIFORNIA

GEORGE E. JACOBS, IV,  
  
                                Plaintiff,  
  
                                v.  
  
A.C. QUINONES, et al.,  
  
                                Defendants.

1:10-cv-02349-AWI-JLT (PC)  
  
ORDER GRANTING AND DENYING  
PLAINTIFF'S MOTION TO COMPEL  
FURTHER RESPONSES TO  
INTERROGATORIES AND DENYING  
SANCTIONS  
  
(Docs. 107, 115)

**I. Background**

Plaintiff is a prisoner proceeding pro se in a civil rights action pursuant to 42 U.S.C. § 1983. This action is proceeding on the First Amended Complaint for Plaintiff's Eighth Amendment claims against Defendants Does #1-3, Pratt<sup>1</sup>, Magana, and Davis for the conditions of his confinement via deprivation of basic necessities; against Defendants Cogdill, Scaiffe, Quinones and Davis for excessive force; and against Defendants Bardonnex and Williams for depriving Plaintiff of yard time. (Docs. 11, 17, 19, 24.) On December 5, 2014, Plaintiff filed a motion to compel further responses to his interrogatories and for sanctions. (Doc. 107.) On December 15, 2015, Plaintiff filed a separate motion for sanctions. (Doc. 115.) After receiving extensions of time, Defendants filed an opposition to both of these motions to which Plaintiff

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<sup>1</sup> Erroneously sued herein as "Pruitt."

1 replied. (Docs. 127, 143.) The motion is deemed submitted.<sup>2</sup> L.R. 230(l).

2 **II. Motion to Compel Further Responses to Interrogatories**

3 Plaintiff is entitled to seek discovery of any nonprivileged matter that is relevant to his  
4 claims. Fed. R. Civ. P. 26(b)(1). The discovery sought may include information that is not  
5 admissible as long as it appears reasonably calculated to lead to the discovery of admissible  
6 evidence. Id. The responding party is obligated to respond to the interrogatories to the fullest  
7 extent possible, Fed. R. Civ. P. 33(b)(3), and any objections must be stated with specificity, Fed.  
8 R. Civ. P. 33(b)(4). The responding party shall use common sense and reason, *e.g.*, *Collins v.*  
9 *Wal-Mart Stores, Inc.*, No. 06-2466-CM-DJW, 2008 WL 1924935, \*8 (D. Kan. Apr. 30, 2008),  
10 and hyper-technical, quibbling, or evasive objections will not be treated with favor.

11 A responding party is not generally required to conduct extensive research in order to  
12 answer an interrogatory, but a reasonable effort to respond must be made. *L.H. v.*  
13 *Schwarzenegger*, No. S-06-2042 LKK GGH, 2007 WL 2781132, \*2 (E.D. Cal. Sep. 21, 2007).  
14 Further, the responding party has a duty to supplement any responses if the information sought is  
15 later obtained or the response provided needs correction. Fed. R. Civ. P. 26(e).

16 If Defendants object to one of Plaintiff's discovery requests, it is Plaintiff's burden in his  
17 motion to compel to demonstrate why the objection is not justified. *See Glass v. Beer*, No. 1:04-  
18 cv-05466-OWW-SMS, 2007 WL 913876, at \*1 (E.D. Cal. Mar. 23, 2007). In general, Plaintiff  
19 must inform the Court which discovery requests are the subject of his motion to compel and, for  
20 each disputed response, inform the Court why the information sought is relevant and why  
21 Defendants' objections are not justified. *Id.*, *see also Hallett v. Morgan*, 296 F.3d 732, 751 (9th  
22 Cir. 2002); *Singleton v. Hedgepath*, No. 1:08-cv-00095-AWI, 2011 WL 1806515, at \*4 (E.D. Cal.  
23 May 10, 2011); *Williams v. Adams*, 1:05-cv-00124-AWI-SMS (PC), 2009 WL 1220311, \*1 (E.D.  
24 Cal. May 4, 2009).

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26 \_\_\_\_\_  
27 <sup>2</sup> The Court has reviewed Plaintiff's motion, the opposition, and reply and all exhibits submitted therewith, but  
28 declines to exhaustively list every argument presented, every fact recited, and every piece of evidence submitted by  
the parties. Omission in this order of reference to various arguments, facts, or evidence should not be interpreted by  
the parties as an indication that the Court overlooked that argument, fact, or piece of evidence.

1                   **A. Interrogatories to Multiple Defendants**

2                   **Interrogatory No. 5 to Bardonnex; No. 10 to Cogdill; No. 10 to Davis; No. 8 to**  
3                   **Magana; No. 10 to Quinones; No. 10 to Pratt:**

4                   “What are the living conditions of a prisoner placed in a management cell. Please  
5                   explain in detail.”

6                   **Response by Bardonnex, Cogdill, Davis, Magana, and Quinones:**

7                   Objection. The interrogatory is vague, and unintelligible because of the phrase  
8                   “living conditions.” The interrogatory is overbroad because it is not limited to time  
9                   and scope. The interrogatory seeks information not relevant to the claims and  
10                  defenses at issue in this action and not reasonably calculated to lead to the  
11                  discovery of admissible evidence. Without waiving objections, Responding Party  
12                  answers:

13                  The living conditions in a management cell approximate the conditions in a  
14                  Security Housing Unit cell, insofar as the safety and security of the institution,  
15                  inmate and staff will permit.

16                  **Response by Pratt:**

17                  States the same objections and then responds: Responding Party lacks the requisite  
18                  knowledge to respond to this request because it is not within the scope of her  
19                  duties.

20                  **Ruling:**

21                  The phrase "living conditions" is vague and Defendants' objection on this ground is  
22                  sustained. For example, it is unknown whether the request seeks information about the physical  
23                  size or condition of the cell or whether it seeks information about the inmate's privileges while  
24                  housed in a management cell. Further, this interrogatory is potentially relevant only as to Plaintiff's  
25                  claim against Defendants Pruitt, Magana, and Davis for the conditions of his confinement based on  
26                  the temperature and lighting in his cell. Plaintiff's motion to compel responses beyond that already  
27                  provided to the above listed interrogatories is **DENIED**.

28                  **Interrogatory No. 6 to Bardonnex; No. 11 to Cogdill; No. 11 to Davis; Nos. 10**  
29                  **& 11<sup>3</sup> to Scaife; No. 9 to Magana; No. 11 to Quinones; and No. 11 to Pratt:**

30                  “What are the living conditions of a prisoner placed in a disciplinary detention cell.  
31                  Please explain in detail.”

32                  **Response by Bardonnex, Cogdill, Davis, Scaife, Magana, and Quinones:**

33                  Objection. The interrogatory is vague, and unintelligible because of the phrase  
34                  “living conditions.” The interrogatory is overbroad because it is not limited to time  
35                  and scope. The interrogatory seeks information not relevant to the claims and  
36                  defenses at issue in this action and not reasonably calculated to lead to the  
37                  discovery of admissible evidence. Without waiving objections, Responding Party

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<sup>3</sup> Interrogatory No. 11 is an exact duplicate of Interrogatory No. 10 directed to Scaife. Scaife's response to No. 11 refers the reader to his response to No. 10, so both are properly addressed here..

1 answers:

2 The living conditions in a management cell approximate the conditions in a  
3 general population cell, insofar as the safety and security of the institution, inmate  
4 and staff will permit.

5 **Response by Pratt:**

6 States the same objections and then responds: Responding Party lacks the requisite  
7 knowledge to respond to this request because it is not within the scope of her  
8 duties.

9 **Ruling:**

10 The phrase "living conditions" is vague and Defendants' objection on this ground is  
11 sustained. For example, it is unknown whether the request seeks information about the physical  
12 size or condition of the cell or whether it seeks information about the inmate's privileges while  
13 housed in a management cell. Further, this interrogatory is potentially relevant only as to Plaintiff's  
14 claim against Defendants Pruitt, Magana, and Davis for the conditions of his confinement based on  
15 the temperature and lighting in his cell. Plaintiff's motion to compel responses beyond that already  
16 provided to the above listed interrogatories is **DENIED**.

17 **Interrogatory No. 7 to Bardonnex; No. 12 to Cogdill, Davis, Scaife, Quiones,  
18 and Pratt; and No. 10 to Magana:**

19 "Are there any specific cells designated to house a prisoner on management cell  
20 status and/or disciplinary detention status here at Corcoran State Prison 4A Yard  
21 (S.H.U.). Please explain in detail."

22 **Response by Bardonnex, Cogdill, Davis, Magana, and Quiones:**

23 Objection. The interrogatory is overly broad as to time. The interrogatory seeks  
24 information not relevant to the claims and defenses at issue in this action and not  
25 reasonably calculated to lead to the discovery of admissible evidence. Without  
26 waiving objections, Responding Party answers:  
27 No.

28 **Response by Scaife:**

States the same objections and then responds: No, but at one point, I recall that a  
holding cell in 4A1 was designated for contraband surveillance watch.

**Response by Pratt:**

States the same objections and then responds: Responding Party lacks the requisite  
knowledge to respond to this request because it is not within the scope of her  
duties.

**Ruling:**

This interrogatory is overbroad as to time, but to the extent Plaintiff is proceeding against  
Magana, Pratt, and Davis on a conditions of confinement claim regarding the temperature and

1 lighting during his time on management cell status, it is relevant at the discovery phase. However,  
2 Defendants provided responses based on their knowledge and duties that are sufficient. Plaintiff's  
3 motion to compel further responses on the above interrogatories is **DENIED**.

4 **Interrogatory No. 24 to Bardonnex and No. 2 to Magana:**

5 "Identify JOHN DOES #1 and 2 and JANE DOE #3, names, current status, and  
6 location. (Refer to Amended Complaint ¶¶s 8-9, pgs. 6-7). Provide information in  
7 detail."

8 **Response to Interrogatory No. 24 to Bardonnex:**

9 Objection. The interrogatory is vague, ambiguous and overly broad because it  
10 seeks information not related to Plaintiff's claims of basic necessities/conditions of  
11 confinement. The interrogatory calls for speculation. The interrogatory seeks  
12 confidential information that: (1) may threaten the security of the California  
13 Department of Corrections and Rehabilitation and the safety of its staff and inmates;  
14 (2) Plaintiff cannot possess this information, as it is confidential under title 15,  
15 sections 3321, 3450, subdivisions (d), (e) of the California Code of Regulations  
16 and not subject to disclosure under section 6254, subdivision (c) of the California  
17 Government Code, and protected by other individuals' privacy rights, whose rights  
18 Defendants are without authority to waive. The interrogatory is compound and  
19 exceeds the limit of 25 interrogatories under Fed. R. Civ. 33(a)(1). Without  
20 waiving objections, Responding Party answers:  
21 Responding Party lacks the requisite information to respond to this interrogatory.

22 **Ruling:**

23 This interrogatory is vague and ambiguous as to "current status, and location" that Plaintiff  
24 seeks pertaining to JOHN DOES #1 and #2 and JANE DOE #3, and Defendants objection based  
25 thereon is SUSTAINED. Further, this interrogatory is overly broad and not related to Plaintiff  
26 claims regarding the conditions of his confinement -- particularly because the deadline to amend  
27 the pleadings in this action to substitute the true names of the above DOES lapsed on August 30,  
28 2013. (See Doc. 34) Defendants' objection based thereon is SUSTAINED. Finally, to the extent  
that the "current status and location" of these DOES may encompass their personal residence, it  
seeks confidential information and Defendants' objection based thereon is SUSTAINED.  
Plaintiff's motion to compel further responses on the above interrogatories is **DENIED**.

**Interrogatory No. 23 to Cogill and No. 22 to Bardonnex and Scaife:**

"Did you know and/or was aware that O.C. pepper spray, by law is declared a  
dangerous weapon which could/can cause serious injury."

**Response by Cogill, Bardonnex, and Scaife:**

Objection. The interrogatory is argumentative and lacks foundation assumes that

1 "O.C. pepper spray, by law is declared a dangerous weapon which could/can cause  
2 serious injury." The interrogatory exceeds the limit of 25 interrogatories under  
3 Fed. R. Civ. 33(a)(1). The interrogatory is vague, ambiguous, and overly broad as  
4 to time. The interrogatory seeks information not relevant to the claims and  
5 defenses at issue in this action and not reasonably calculated to lead to the  
6 discovery of admissible evidence.

7 **Ruling:**

8 This interrogatory is vague and ambiguous and overly broad as to time and Defendants'  
9 objection thereon is SUSTAINED. Further, it is argumentative and lacks foundation as to what  
10 law Plaintiff is suggesting declared O.C. pepper spray to be a dangerous weapon and definition of  
11 "dangerous weapon" under that unknown law. Defendants' objections thereon are SUSTAINED.  
12 Plaintiff's motion to compel further responses on the above interrogatories is **DENIED**.

13 **Interrogatory No. 16 to Cogdill, Davis, Scaife, and Quinones:**

14 "How long does CDCR allow you to spray a prisoner confined inside of his cell  
15 with O.C. pepper spray, before you must enter the cell and forcibly extract him.  
16 Please explain in detail."

17 **Response by Cogdill, Davis, Scaife, and Quinones:**

18 Objection. The interrogatory is vague and ambiguous. The interrogatory calls for  
19 speculation and does not contain sufficient foundational facts on which to form an  
20 opinion. Without waiving objections Responding Party answers:  
21 There was no restriction or limit on the amount of chemical agent or number of  
22 bursts that could be introduced into a cell in 2007. Determination was based on  
23 incident commander's assessment of how much chemical agent made contact with  
24 barricades versus the inmate, the inmate's compliance, the presence of a weapon,  
25 and other security factors.

26 **Ruling:**

27 The responses provided by these Defendants, in spite of their stated objections, sufficiently  
28 and specifically responds to Plaintiff's interrogatory. Plaintiff's motion to compel further  
responses on the above interrogatories is **DENIED**.

**Interrogatory No. 17 to Cogdill, Davis, Scaife, and Quinones:**

"What are the names and CDCR numbers of the prisoners that were housed in cells  
26-30 in 4LEFT 4A Yard, same section and housing unit as plaintiff on September  
12, 2007. Explain in detail."

**Response by Cogdill, Davis, Scaife, and Quinones:**

Objection. The request is vague, ambiguous, and unintelligible. The request is  
overbroad seeks information that is not relevant to the claims and defenses in this  
action and not likely to lead to the discovery of admissible evidence. The request  
seeks disclosure of confidential information that: 1) may threaten the security of

1 the California Department of Corrections and Rehabilitation and the safety of its  
2 staff and inmates; 2) cannot be possessed by an inmate, as it is confidential under  
3 California Code of Regulations title 15, §§ 3321, 3450(d); 3) not subject to  
4 disclosure under California Government Code § 6254(c) and (f); and 4) protected  
5 by other individuals' privacy rights, whose rights Responding Party is without  
6 authority to waive. The request confidential and private information protected  
7 under the United States Constitution, California Constitution, sections 832.7 and  
8 6126.3 of the California Penal Code, and sections 1043 and 1045 of the California  
9 Evidence Code.

6 **Ruling:**

7 Defendants assert that inmates are not allowed to have full names and CDCR numbers for  
8 other inmates for safety and security reasons. (Doc. 127, 43:21-44:3.) The Court appreciates the  
9 security needs of the prison and inmates, as described by Defendants, precludes specific  
10 information about inmates generally, the Court disagrees that Plaintiff is not entitled to identify  
11 witnesses who may be helpful to his case. To the contrary, Plaintiff is entitled to determine the  
12 identities of those inmates he believes witnessed the events at issue. Here, however, Plaintiff  
13 makes no showing that these inmates witnessed the events or that Plaintiff has reason to believe  
14 that they did. Thus, this request without a sufficient showing implicates all of the safety and  
15 security concerns set forth by Defendants. Accordingly, Plaintiff's motion to compel further  
16 responses to the above interrogatories is **DENIED**.

17 **Interrogatory No. 18 to Cogdill and Scaife:**

18 "Where are the prisoners now located/housed who occupied cells 26-30 in 4LEFT  
19 4A Yard on September 12, 2007. Explain in detail."

19 **Response by Cogdill and Scaife:**

20 Objection. The request is vague, ambiguous, and unintelligible. The request is  
21 overbroad seeks information that is not relevant to the claims and defenses in this  
22 action and not likely to lead to the discovery of admissible evidence. The request  
23 seeks disclosure of confidential information that: 1) may threaten the security of  
24 the California Department of Corrections and Rehabilitation and the safety of its  
25 staff and inmates; 2) cannot be possessed by an inmate, as it is confidential under  
26 California Code of Regulations title 15, §§ 3321, 3450(d); 3) not subject to  
27 disclosure under California Government Code § 6254(c) and (f); and 4) protected  
28 by other individuals' privacy rights, whose rights Responding Party is without  
29 authority to waive. The request confidential and private information protected  
30 under the United States Constitution, California Constitution, sections 832.7 and  
31 6126.3 of the California Penal Code, and sections 1043 and 1045 of the California  
32 Evidence Code.

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1 **Ruling:**

2 Defendants assert that inmates are not allowed to have full names and CDCR numbers for  
3 other inmates or their housing assignments for safety and security reasons. (Doc. 127, 43:21-  
4 44:3.) The Court appreciates the security needs of the prison and inmates, as described by  
5 Defendants, precludes specific information about inmates generally, the Court disagrees that  
6 Plaintiff is not entitled to identify witnesses who may be helpful to his case. To the contrary,  
7 Plaintiff is entitled to determine the identities of those inmates he believes witnessed the events at  
8 issue. Here, however, Plaintiff makes no showing that these inmates witnessed the events or that  
9 Plaintiff has reason to believe that they did. Thus, unless and until there is a sufficient showing  
10 demonstrating these inmates witnessed the event, this request implicates all of the safety and  
11 security concerns set forth by Defendants. Accordingly, Plaintiff's motion to compel further  
12 responses to the above interrogatories is **DENIED**.

13 **Interrogatory No. 23 to Davis, Scaife, and Quinones:**

14 "Is there a CDCR policy and/or instruction(s) on the use of each of the following  
15 items upon a prisoner; (1) MK-9 cannister(s); (2) MK-46 cannister; (3) Z-505  
fogger; and (4) T-16 blast dispersion grenades. Explain in detail."

16 **Response by Davis, Scaife, and Quinones:**

17 Objection. The interrogatory is vague and unintelligible as to the term "a CDCR  
18 policy and/or instruction." The interrogatory seeks confidential information,  
19 disclosure of which would jeopardize institutional security. The interrogatory  
seeks information not relevant to the claims and defenses at issue in this action  
and not reasonably calculated to the discovery of admissible evidence. Without  
waiving objections, Responding Party answers:

20 **Ruling:**

21 The interrogatory is vague. The Court cannot determine whether Plaintiff is seeking  
22 information related to a "use of force" policy that governs when and how these devices may be  
23 employed or whether he seeks information on how to actually use these devices. Thus, based upon  
24 the ambiguity of the interrogatory, the objection is **SUSTAINED**. Clearly, if he is seeking  
25 information detailed instructions on how to use MK-9 cannisters, MK-46 cannisters, Z-505  
26 foggers, and T-16 blast dispersions grenades obviously would jeopardize institutional security.  
27 Defendants' objection based there on is **SUSTAINED**. Plaintiff's motion to compel further  
28



1 responses to the above interrogatories is **DENIED**.

2 **Interrogatory No. 19 to Davis and Quinones:**

3 “On September 12, 2007 approximately how long of a period of time did your  
4 subordinate officers spray plaintiff with the chemical agents, while he was housed  
5 inside cell #26. Please explain in detail.”

6 **Response by Davis and Quinones:**

7 Objection. The interrogatory calls for speculation. The interrogatory is vague and  
8 ambiguous as to the term “how long of a period of time” did officers spray  
9 Plaintiff. Without waiving said objection, and assuming Plaintiff means the total  
10 amount of time O.C. pepper spray mixture was being actively deployed into  
11 Plaintiff’s cell, Responding Party answers:

12 Responding Party does not know, and the answer cannot be determined from the  
13 records.

14 **Ruling:**

15 While Plaintiff argues that this response is "evasive, unreasonable, vague, incomplete and  
16 perjured testimony" and that Defendants fail to disclose information required by the Federal Rules  
17 of Civil Procedure, he does not state how the above response is deficient, nor does he show or  
18 even suggest what Defendants might do to ascertain the desired information beyond their own  
19 recollection and the records. Even if Davis was present at the incident as Plaintiff argues, Plaintiff  
20 does not show any basis he would have to estimate the length of time Plaintiff was sprayed.  
21 Plaintiff's dissatisfaction with the response does not equate to an insufficient in the response.  
22 Accordingly, Plaintiff's motion to compel further responses to the above interrogatories is  
23 **DENIED**.

24 **Interrogatory No. 20 to Davis and Quinones:**

25 “At some point during plaintiff’s confinement to the management cell #26 in 1  
26 RIGHT 4A Yard did you pay him a visit and interview him concerning his  
27 complaint on his conditions of confinement. Please explain in detail.”

28 **Response by Davis and Quinones:**

Objection. The interrogatory is argumentative and lacks foundation in that is  
assumes Plaintiff was in a “management cell,” and that Plaintiff lodges “his  
complaint on his conditions of confinement.” The request is vague, ambiguous,  
and overly broad as to time. Without waiving objections, Responding Party  
answers:

Responding Party does not recall, and without further details such as date, time,  
and nature of the complaint, the answer cannot be determined from the records.

**Ruling:**

Plaintiff also argues that this response is "incomplete, evasive, vague, and fails to disclose

1 information required by the Federal Rules of Civil Procedure 26(a)," but he does not state how the  
2 above response is deficient, nor does he show or even suggest what Defendants might do to  
3 ascertain the desired information beyond their own recollection and the records from the incident.  
4 Plaintiff's dissatisfaction with the response does not equate to an insufficient in the response.  
5 Accordingly, Plaintiff's motion to compel further responses to the above interrogatories is  
6 **DENIED.**

7 **B. Individual Interrogatories to Bardonnex**

8 **Interrogatory No. 13: to Bardonnex**

9 "Do you have evidence and/or documentary evidence which shows plaintiff  
10 refused yard for six months during the period of September 12, 2007 thru January  
11 2008. Explain in detail."

12 **Response:**

13 Objection. The interrogatory is argumentative and lacks foundation that it assumes  
14 that "plaintiff refused yard for six months during the period of September 12, 2007  
15 thru January 2008." Without waving objections, Responding Party answers:  
16 The Inmate Segregation Record, CDC 114-A, records an inmate's daily activity.  
17 Plaintiff refused yard exercise on 9/10/07, 9/14/07, 9/17/07, 1/19/07, 9/21/07,  
18 9/25/07, 9/26/07, 9/28/07, 10/2/07, 10/3/07, 10/5/07, 10/9/07, 10/17/07, 10/19/07,  
19 10/13/07, 1-15/07, 10/26/07, 10/30/07, 11/13/07, 11/21/07, 11/24/07, 11/27/07,  
20 11/30/07, 12/5/07, 12/12/07, 12/14/07, 12/17/07, 12/25/07, and 12/26/07. Plaintiff  
21 participated in yard exercise on 11/2/07, 11/6/07, 11/15/07, 11/16/07, 11/29/07,  
22 12/6/07, 12/21/07, 12/22/07, 12/18/07, 12/19/10, and 12/28/07.

23 **Ruling:**

24 Plaintiff asserts that the above information is inaccurate and/or perjured and cites a number  
25 of documents that he asserts show that various of the above days he did not refuse yard. However,  
26 discrepancies between facts and evidence is not a basis to compel a further response or to attempt  
27 to force an opposing party to change a response to propounded discovery; rather, it is fodder for  
28 Plaintiff to attempt to impeach a witness or to contradict testimony thereon at trial and/or  
dispositive motion. Accordingly, Plaintiff's motion to compel further response to the above  
interrogatory is **DENIED.**

**Interrogatory No. 14 to Bardonnex:**

"Did any of your superiors tell you at any time plaintiff was on any typd [sic] of  
yard restriction during the period of September 12, 2007 thru October 26, 2007.  
Explain in detail."

**Response:**

Responding Party does not recall what, if anything, his superiors told him

1 regarding Plaintiff's yard privileges during the period of September 12, 2007 thru  
2 October 26, 2007. A chrono in Plaintiff's C-file, dated September 13, 2007, states:  
3 "On 9-13-07, inmate Jacobs refused to make a personal appearance before this  
4 Senior Hearing Officer (SHO) for Adjudication Disposition of Rules Violation  
Report CDC 115, Log # 4A4-07-08-15. Subject was subsequently found Guilty  
and assessed TEN (10) DAYS Confined to Quarters (CTQ) commencing on 09-13-  
07 through 09-23-07."

5 **Ruling:**

6 Again, Plaintiff asserts that the above information is inaccurate and/or perjured and cites a  
7 number of documents that he asserts show that various of the above days he did not refuse yard.  
8 However, discrepancies between facts and evidence is not a basis to compel a further response or  
9 to attempt to force an opposing party to change a response to propounded discovery; rather, it is  
10 fodder for Plaintiff to attempt to impeach a witness or to contradict testimony thereon at trial  
11 and/or dispositive motion. Accordingly, Plaintiff's motion to compel further response to the above  
12 interrogatory is **DENIED**.

13 **Interrogatory No. 18 to Bardonnex:**

14 "Did you issue plaintiff any property or supplies while he was housed in cell #26,  
15 4A 1 RIGHT during the time period from September 12, 2007 thru October 26,  
2007. Explain in detail."

16 **Response:**

17 Responding Party does not recall. But cleaning and personal hygiene supplies were  
provided on a weekly basis during this time period, and Plaintiff's segregation  
records show that supplies were issued.

18 **Ruling:**

19 Again, Plaintiff asserts that the above information is inaccurate and/or perjured and cites a  
20 number of documents that he asserts show that various of the above days he did not refuse yard.  
21 However, discrepancies between facts and evidence is not a basis to compel a further response or  
22 to attempt to force an opposing party to change a response to propounded discovery; rather, it is  
23 fodder for Plaintiff to attempt to impeach a witness or to contradict testimony thereon at trial  
24 and/or dispositive motion. Accordingly, Plaintiff's motion to compel further response to the above  
25 interrogatory is **DENIED**.

26 **Interrogatory No. 20 to Bardonnex:**

27 "Have you been investigated for denying prisoners access to the recreation yard in  
28 the past 10 years. Explain in detail."

1           **Response to Interrogatory No. 20 to Bardonnex:**

2           Objection. The interrogatory is not relevant to the claims and defenses involved in  
3           this action and not reasonably calculated to lead to the discovery of admissible  
4           evidence. The interrogatory is vague, ambiguous, and overly broad. The  
5           interrogatory is compound and exceeds the limit of 25 interrogatories under Fed.  
6           R. Civ. 33(a)(1). Without waiving objections, Responding Party answers:  
7           Responding Party has never been found responsible for denying prisoners yard  
8           access.

9           **Ruling:**

10           As was previously addressed in the motion to quash Plaintiff's subpoena duces tecum,  
11           evidence of unsubstantiated/unfounded accusations against any of the Defendants in this action are  
12           unlikely to lead to the discovery of admissible evidence and are thus irrelevant to this action. (*See*  
13           Doc. 103, at 7:16-8:9.) Bardonnex's response to this interrogatory parallels that finding. Plaintiff  
14           fails to show any use for any unfounded accusations against Bardonnex other than as inadmissible  
15           character evidence. Accordingly, Plaintiff's motion to compel further response to the above  
16           interrogatory is **DENIED**.

17           **Interrogatory No. 25 to Bardonnex:**

18           “How long are guards allowed to be assigned to the same post assignment and/or  
19           housing unit consecutively. Explain in detail.”

20           **Response by Bardonnex:**

21           Objection. The interrogatory is vague, ambiguous and overly broad because it  
22           seeks information not related to Plaintiff's claims of basic necessities/conditions of  
23           confinement and seeks information not relevant to the claims and defenses at issue  
24           in this action and not reasonably calculated to lead to the discovery of admissible  
25           evidence. The interrogatory is compound and exceeds the limit of 25  
26           interrogatories under Fed. R. Civ. 33(a)(1). Without waiving and objections,  
27           Responding Party answers:  
28           Responding Party is unaware of any such time limits to post assignments.

29           **Ruling:**

30           Plaintiff does not show that this interrogatory is related to his claims in this action. His  
31           displeasure with the response given subsequent to the objections will not suffice. Bardonnex has  
32           provided a response delineating the information of which he is aware that is responsive to  
33           Plaintiff's request and Plaintiff fails to show that any of his objections are not justified.  
34           Accordingly, Plaintiff's motion to compel further response to the above interrogatory is **DENIED**.

35           ///

1                   **C. Individual Interrogatories to Cogdill**

2                   **Interrogatory No. 4 to Cogdill:**

3                   “Do you have other pending lawsuits against you filed by prisoners or any free  
4                   person for use of excessive force, assault & battery, or retaliation.”

5                   **Response by Cogdill:**

6                   Objection. The interrogatory is not relevant to the claims and defenses involved in  
7                   this action and not reasonably calculated to lead to the discovery of admissible  
8                   evidence. The interrogatory is vague, ambiguous, and overly broad. Without  
9                   waiving objections, Responding Party answers:  
10                  Not applicable.

11                  **Interrogatory No. 5 to Cogdill:**

12                  “If your answer is yes to the preceding interrogatory request (Rog #4), please  
13                  explain in detail and/or attach documentation which explain/detail the  
14                  circumstances of these events.”

15                  **Response by Cogdill:**

16                  Objection. The interrogatory is not relevant to the claims and defenses involved in  
17                  this action and not reasonably calculated to lead to the discovery of admissible  
18                  evidence. The interrogatory is vague, ambiguous, and overly broad. Without  
19                  waiving objections, Responding Party answers:  
20                  Not applicable.

21                  **Ruling on No. 4 & No. 5:**

22                  Cogdill indicates that he intended to respond "No" to No. 4 rather than "Not applicable"  
23                  and that he served a supplemental response correcting this error and asserting that this negated the  
24                  need for further response to be compelled. Plaintiff does not address this in his reply and so  
25                  appears to agree by his silence. In any event, No. 4 requested a yes or no response. Once the  
26                  negative response was given, No. 5 was not applicable since it sought information based on an  
27                  affirmative response to No. 4. Accordingly, Plaintiff's motion to compel further responses from  
28                  Cogdill to No. 4 and No. 5 is **DENIED**.

**C. Defendant Davis**

**Interrogatory No. 18 to Davis:**

                    “On September 12, 2007 during the use of force extraction of plaintiff, were you in  
                    a position to visually see how much chemicals your subordinate officers were  
                    spraying plaintiff with. Please explain.”

**Response:**

                    Objection. The interrogatory is argumentative and lacks foundation in that it  
                    assumes “a use of force extraction of Plaintiff.” Responding Party was the  
                    Administrate Officer of the Day (AOD) and did not directly participate in or  
                    witness the occurrences at Plaintiff's cell on September 12, 2007.

1 **Ruling:**

2 Plaintiff does not show that Defendant's objection is not justified. As previously stated, the  
3 fact that Plaintiff feels evidence exists to contradict Davis' response is material he may be able to  
4 use to question Davis' credibility or for impeachment purposes, but it does not provide justification  
5 to require a Defendant to change a response that he feels is truthful. Accordingly, Plaintiff's  
6 motion to compel further response to the above interrogatory is **DENIED**.

7 **D. Defendant Magana**

8 **Interrogatory No. 1 to Magana:**

9 "Where can the initial search slip for cell #26 in 4A 1RIGHT Building be located.  
(Refer to Request for Admission, Set One, nos 73&79. Explain in detail."

10 **Response to Interrogatory No. 1 to Magana:**

11 Objection. The interrogatory as phrased cannot be answered because Defendant  
12 has not responded to Requests for Admissions 73 and 79 under the Court's May  
13 16, 2014 Order (ECF No. 61.) The interrogatory is not relevant to the claims and  
14 defenses involved in this action and not reasonably calculated to lead to the  
15 discovery of admissible evidence. The interrogatory is vague, ambiguous and  
overly broad as to date. The request is argumentative in that it assumes the  
existence of an "initial search slip for cell #26 in 4A 1RIGHT." The interrogatory  
lacks foundation. Without waiving objections, Responding Party answers: Cell  
search slips are kept in Plaintiff's 114-a file, within Plaintiff's C-File, which is  
equally available to Plaintiff.

16 **Ruling:**

17 Plaintiff shows nothing other than his disagreement with Magana's response. This is  
18 insufficient to show that his response is evasive or incomplete. Fed. R. Civ. P. 37(a)(4). This is  
19 yet more fodder for Plaintiff to attack the Defendants' assertions and positions at trial and/or on  
20 dispositive motion. Accordingly, Plaintiff's motion to compel a further response from Magana to  
21 the above interrogatory is **DENIED**.

22 **Interrogatory No. 21 to Magana:**

23 "During September 12, 2007-October 26, 2007 did you see any guards/co-  
24 workers issue plaintiff any property or state supplies whatsoever while he was  
housed in cell #26."

25 **Response:**

26 Yes. Plaintiff was issued supplies and clothing during his stay in cell #26.

27 **Ruling:**

28 Plaintiff argues that "evasive objections cannot be treated with favor" and that "Defendant

1 must answer truthfully and to the full extent possible." (Doc. 107, 25:12-15.) This appears to be  
2 exactly what Magana has done. In fact, Magana's response went beyond that required since No.  
3 21 required only an affirmative, or negative answer. Accordingly, Plaintiff's motion to compel a  
4 further response from Magana to this interrogatory is DENIED.

5 **E. Defendant Pratt**

6 **Interrogatory No. 13 to Pratt:**

7 "What were your specific duties while assigned to the 4A Yard SHU as psych tech.  
8 Explain in detail."

9 **Response:**

10 Objection. The interrogatory is vague, ambiguous, and overly broad. Without  
11 waiving objections, Responding Party answers:  
12 Responding Party conducted daily rounds and documented the mental health of  
13 inmates. Defendant also provided documentation on medication monitoring,  
14 ADLS, suicidality, dangerousness, and grave disability. Responding Party further  
15 provided crisis evaluation and intervention, mental health crisis bed five-day  
16 follow-up. Responding Party also participated in the Interdisciplinary Treatment  
17 Team, attended staff meetings, and attended other departmental training.

18 **Ruling:**

19 Plaintiff argues that this response is deficient and incomplete and that Pratt cannot respond  
20 that she is unable to respond because she lacks knowledge. (Doc. 107, 26:18-27:3.) However, this  
21 argument does not apply to Pratt's response. Pratt provided a straightforward answer as to her  
22 duties while assigned to the 4A Yard SHU as psych tech. Plaintiff's argument that this response is  
23 somehow deficient is wholly without merit. Accordingly, Plaintiff's motion to compel a further  
24 response to the above interrogatory is **DENIED**.

25 **Interrogatory No. 9 to Pratt:**

26 "Explain the difference between management cell status and disciplinary detention  
27 status."

28 **Response:**

Objection. The interrogatory seeks information that is not relevant to the claims  
and defenses at issue in this action and not reasonably calculated to the discovery  
of admissible evidence. Without waiving objections, Responding Party answers:  
Responding Party lacks the requisite knowledge to respond to this request because  
it is not within the scope of her duties.

**Ruling:**

Here again Plaintiff argues that this response is deficient and incomplete and that Pratt

1 cannot respond that she is unable to respond because she lacks knowledge and/or the question calls  
2 for information beyond her job duties. (Doc. 107, 26:18-27:3.) There is no showing that a psych  
3 tech is in a position to know about management cells versus disciplinary status and she denies she  
4 has this knowledge. Plaintiff fails to show that Pratt's objections are not justified. Accordingly,  
5 Plaintiff's motion to compel a further response to the above interrogatory is **DENIED**.

6 **Interrogatory No. 15 to Pratt:**

7 "Why are mental health prisoner(s) forced to live and sleep in SHU cells with the  
8 cell light on 24 hrs a day. Explain in detail."

9 **Response:**

10 Objection. The interrogatory is vague, ambiguous, and overly broad. The  
11 interrogatory seeks information not relevant to claims and defenses at issue in the  
12 action and not reasonably calculated to lead to the discovery of admissible  
13 evidence. The interrogatory lacks foundation and is argumentative because it  
14 assumes that "mental health prisoner(s) forced to live and sleep in SHU cells with  
15 the cell light on 24 hrs a day." The interrogatory is compound and calls for  
16 speculation. Without waiving objections, Responding Party answers:  
17 Responding Party lacks the requisite knowledge to respond to this request because  
18 it is not within the scope of her duties.

19 **Ruling:**

20 Here again Plaintiff argues that this response is deficient and incomplete and that Pratt  
21 cannot state that she is unable to respond because she lacks knowledge and/or the question calls  
22 for information beyond her job duties. (Doc. 107, 26:18-27:3.) There is no showing that a psych  
23 tech is in a position to know about the lighting in SHU cells and she denies she has this  
24 knowledge. Plaintiff fails to show that Pratt's objections are not justified and/or that she has  
25 responsive information within her possession, custody, and/or control. However, Magana's  
26 response to Interrogatory No. 2 indicates that "the SHU housing unit is designed for inmates who  
27 require a higher level of safety and security. The inmates housed in SHU are of higher rise, and  
28 are prohibited from controlling their lights for safety and security reasons." Further, Magana's  
response to Interrogatory No. 16 indicates that bright lights are on from 2:00 p.m. to 10:00 p.m.  
and that "night lights" are on from 10:00 p.m. to 6:00 a.m. Thus, Plaintiff has received a sufficient  
response to this interrogatory from another Defendant with applicable knowledge. Accordingly,  
Plaintiff's motion to compel a further response to the above interrogatory is **DENIED**.



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**Interrogatory No. 16 to Pratt:**

“Does living in a small cell with a light on 24 hrs a day seven days a week cause sleep deprivation and/or sensor/deprivation. Explain in detail.”

**Response:**

Objection. The interrogatory is vague, ambiguous, and overly broad. The interrogatory seeks information not relevant to the claims and defenses at issue in the action and not likely to lead to the discovery of admissible evidence. The interrogatory lacks foundation and is argumentative because it assumes facts not in evidence: that a light is on “24 hrs a day seven days a week.” The interrogatory calls for speculation and does not contain sufficient facts for Responding Party to answer.

**Ruling:**

This interrogatory is argumentative and lacks foundation as it presumes that a normal light is on 24/7. Plaintiff fails to show that this is inaccurate or evasive; rather, he asserts that it is deficient and incomplete without providing a factual basis for the assertions. Plaintiff also fails to address Plaintiff’s objections and thus fails to show that they are not justified. Accordingly, Plaintiff’s motion to compel further response to the above interrogatory is **DENIED**.

**Interrogatory No. 17 to Pratt:**

“Is it unusual for a mental health prisoner confined to a disciplinary detention cell denied drinking water for his/her during in such a cell. Explain in detail.”

**Response:**

Objection. The interrogatory is argumentative and lacks foundation because it assumes “a mental health prisoner is confined to a disciplinary detention cell denied drinking water.” The interrogatory is vague, ambiguous and unintelligible. The interrogatory seeks information not relevant to the claims and defenses at issue in this action and not reasonably calculated to lead to the discovery of admissible evidence. The interrogatory calls for speculation.

**Interrogatory No. 18 to Pratt:**

“Is it unusual for a mental health prisoner confined to a disciplinary detention cell denied drinking water for his/her duration in such a cell. Explain in detail.”

**Response:**

Objection. The interrogatory is argumentative and lacks foundation because it assumes “a mental health prisoner is confined to a disciplinary detention cell denied drinking water.” The interrogatory is vague, ambiguous and unintelligible. The interrogatory seeks information not relevant to the claims and defenses at issue in this action and not reasonably calculated to lead to the discovery of admissible evidence. The interrogatory calls for speculation and contains insufficient facts to render an opinion.

///

1 **Ruling:**

2 Plaintiff's allegations regarding ready access to drinking water while on management cell  
3 were dismissed on screening. Interrogatory No. 17 and No. 18 seek information that is not  
4 relevant to this action. Accordingly, Plaintiff's motion to compel further responses to the above  
5 interrogatories is **DENIED**.

6 **Interrogatory No. 19 To Pratt:**

7 "Why are prisoners housed in the Corcoran SHU cells prohibited from turning  
8 their cell light on or off. Explain in detail."

8 **Response:**

9 Objection. The interrogatory is vague, ambiguous and overly broad. The  
10 interrogatory seeks information not relevant to the claims and defenses at issue in  
11 this action and not likely to lead to the discovery of admissible evidence. The  
12 interrogatory is argumentative and lacks foundation because it assumes that  
13 "prisoners housed in the Corcoran SHU cells prohibited from turning their cell  
14 light on or off." The interrogatory calls for speculation. Without waiving  
15 objections, Responding Party answers:  
16 Responding Party lacks the requisite knowledge to respond to this request  
17 because it is not within the scope of her duties.

14 **Interrogatory No. 20 to Pratt:**

15 "Isn't prohibiting a mental health prisoner from turning his cell light off to sleep  
16 against the Mental Health Department policy. Explain in detail."

16 **Response:**

17 Objection. The interrogatory is vague, ambiguous and overly broad. The  
18 interrogatory seeks information not relevant to the claims and defenses at issue in  
19 this action and not likely to lead to the discovery of admissible evidence. The  
20 interrogatory is argumentative and lacks foundation because it assumes that  
21 "mental health prisoners are prohibited from turning their cell light on or off."  
22 The interrogatory calls for speculation. Without waiving objections, Responding  
23 Party answers:  
24 Responding Party lacks the requisite knowledge to respond to this request  
25 because it is not within the scope of her duties

21 **Ruling:**

22 Plaintiff fails to show that Defendants objection that Plaintiff is seeking information that is  
23 not relevant to the claims and defenses at issue in this action and not likely to lead to the discovery  
24 of admissible evidence is not justified. The issue in this action is not whether Plaintiff should  
25 have had a switch to control the lighting in his cell, but rather whether he was exposed to lighting  
26 that as a condition of his confinement that violated his rights under the Eighth Amendment.  
27 Further, Magana's response to No. 3 indicates that inmates in SHU housing require a higher level

1 of safety and security and they are prohibited from controlling their lights for safety and security  
2 concerns. Thus, Plaintiff has applicable information from an appropriate source. On the other  
3 hand, Defendant denies she has this knowledge. Accordingly, Plaintiff's motion to compel further  
4 responses to these interrogatories is **DENIED**.

5 **Interrogatory No. 23 to Pratt:**

6 "Within that time frame you were assigned to the 4A Yard SHU, how many  
7 times did you visit plaintiff in cell #26 4A-1 RIGHT Building during the rounds  
of September 2007- November 1, 2007. Explain in detail."

8 **Response to Interrogatory No. 23 to Pratt:**

9 Objection. The interrogatory is vague, ambiguous and overly broad. The  
10 interrogatory seeks information not relevant to the claims and defenses at issue  
in this action and not reasonably calculated to the discovery of admissible  
evidence. Without waiving objections, Responding Party answers:  
Responding Party does not recall.

11 **Ruling:**

12 The number of times Pratt, as medical personnel, visited Plaintiff's cell during the listed  
13 time frame is relevant to Pratt's knowledge of the conditions of Plaintiff's confinement, which is at  
14 the heart of Plaintiff's claim against Pratt. Further, the number of visit is something that Pratt, as  
15 medical personnel should have noted on a medical chart/record which she should use to refresh her  
16 recollection rather than going by sheer memory. Accordingly, Plaintiff's motion to compel further  
17 response to this interrogatory is **GRANTED**. Within 30 days of the date of service of this order,  
18 Pratt is to serve a response listing the dates and purposes of her visits to Plaintiff's cell for medical  
19 purposes between September 1, 2007 and November 1, 2007.

20 **III. Motion for Sanctions**

21 Plaintiff requests imposition of sanctions for improper discovery conduct/abuses in this  
22 motion and by separate motion, filed on December 15, 2015. (Doc. 115.) Federal Rule of Civil  
23 Procedure 37(a)(5) prohibits the imposition of sanctions if the opposing party's nondisclosure,  
24 response, or objection was substantially justified, or if other circumstances exist to make the  
25 imposition of sanctions unjust. Plaintiff makes little showing as to the basis upon which he seeks  
26 sanctions other than his displeasure with the responses he received to his propounded discovery.  
27 Just because discovery disputes arose does not justify imposition of sanctions. Defendants'

1 responses to Plaintiff's discovery requests were substantially justified -- as is particularly evident  
2 by the fact that the majority of Plaintiff's motion to compel is being denied. Accordingly,  
3 Plaintiff's requests for sanctions -- both in this present motion and in the motion he filed on  
4 December 15, 2015 -- are **DENIED**.

5 **VI. Conclusion**

6 Accordingly, it is HEREBY ORDERED that:

- 7 (1) Plaintiff's motion to compel further responses to interrogatories and for sanctions, filed  
8 on December 5, 2014 (Doc. 107), is **GRANTED** and **DENIED** as discussed in  
9 detail in this order;
- 10 (2) all further responses as ordered herein are to be served on Plaintiff within 30 days of  
11 the date of service of this order; and
- 12 (3) Plaintiff's motion for sanctions, both in his motion to compel further responses to  
13 interrogatories and in his motion for sanctions filed on December 15, 2015 (Doc.  
14 115) are DENIED.

15 IT IS SO ORDERED.

16 Dated: June 12, 2015

17 /s/ Jennifer L. Thurston  
18 UNITED STATES MAGISTRATE JUDGE