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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MATTHEW JAMES GRIFFIN,)
)
 Plaintiff,)
)
 vs.)
)
 FERNANDO GONZALES, et al.,)
)
 Defendants.)

1:11-cv-00210-AWI-GSA-PC
ORDER DENYING PLAINTIFF'S
MOTION TO TAKE DEPOSITIONS AS
PREMATURE
(Doc. 13.)

Matthew James Griffin ("Plaintiff") is a state prisoner proceeding pro se and in forma pauperis with this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed the complaint commencing this action on January 28, 2011. (Doc. 1.) On December 14, 2011, Plaintiff filed a motion to take depositions. (Doc. 13.)

Plaintiff's motion is premature because depositions may not be conducted until after discovery has been opened, and discovery has not been opened in this action. The Court shall issue a Scheduling Order opening discovery after one or more of the defendants has filed an answer to the complaint. However, first the Court must determine that Plaintiff's complaint contains cognizable claims for relief against the named defendants, and the complaint must be served on the defendants.¹ After the complaint has been served and one or more of the defendants has filed an answer, the Court shall issue the Scheduling Order opening discovery.

¹The Court will, *sua sponte*, direct the United States Marshal to serve the complaint after the Court has screened the complaint and determined that it states a cognizable claim.

1 The Court dismissed Plaintiff's complaint on January 10, 2012, for failure to state a claim, with
2 leave to file an amended complaint. (Doc. 14.) At this stage of the proceedings, Plaintiff must file an
3 amended complaint before the case can proceed. Thus, it is premature for Plaintiff to conduct
4 depositions, and Plaintiff's motion shall be denied.

5 Based on the foregoing, IT IS HEREBY ORDERED that Plaintiff's motion to conduct
6 depositions, filed on December 14, 2011, is DENIED as premature.

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8 IT IS SO ORDERED.

9 **Dated: January 26, 2012**

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE

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