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

IRA GREEN,)	Case No.: 1:11-CV-01611 LJO DLB (PC)
)	
Plaintiff,)	
v.)	ORDER DENYING DEFENDANTS’
)	MOTION FOR RECONSIDERATION
JOHN CHAKOTOS,)	
)	[ECF No. 48]
Defendant.)	
)	
)	
)	

Plaintiff Ira Green (“Plaintiff”) is a prisoner in the custody of the California Department of Corrections and Rehabilitation (“CDCR”). Plaintiff is proceeding pro se in this civil rights action pursuant to 42 U.S.C. § 1983.

PROCEDURAL BACKGROUND

Plaintiff filed this action on September 22, 2011. On August 11, 2014, the Court ordered that the action proceed on Plaintiff’s Eighth Amendment claim for deliberate indifference against Defendant John Chakotos.

Defendant Chakotos filed his answer on August 25, 2014.

1 The Court notes that the discovery order at issue, which has been used and upheld in other
2 actions in this Court, was implemented in light of the numerous discovery issues that were arising with
3 increasing frequency in other pro se prisoner actions. Defendant’s discovery practices were bordering
4 on unnecessarily obstructive, and these tactics caused numerous discovery disputes that required
5 extensive Court resources to resolve. The intent of the order, as explained above, is to discourage
6 similar wasteful activities.

7 Defendant further believes that such requirements are an undue burden on the State in prisoner
8 cases. However, again, the intent behind the order is to streamline the discovery process and
9 ultimately reduce the overall burden on the State, the Court and the parties. In fact, since the
10 requirement to exchange initial disclosures has been in place, there has been a significant decrease in
11 discovery disputes in actions where the order has been issued. This decrease has benefited both the
12 parties *and* the Court.

13 Similarly, although Defendant suggests that the order deprives counsel of the exercise of
14 professional judgment in determining how much time and effort to devote to investigation, the order
15 requires no more than would be required under Rule 26(a), or in the ordinary course of investigating a
16 complaint. The purpose of initial disclosures under FRCP 26(a) is “to accelerate the *exchange of basic*
17 *information . . .* and to eliminate the paper work involved in requesting such information.” Fed. R.
18 Civ. P. 26(a)(1) Advisory Committee Note of 1993 (emphasis added). Orders such as this fall well
19 within the vested control of a trial court to control its docket and to ensure efficient use of limited
20 judicial resources.

21 Defendant’s generic burden argument is also undermined by the fact that in almost all cases
22 where this order has been upheld, Defendant has, within a reasonable amount of time, filed a notice
23 with the Court that he has provided his initial disclosures. Moreover, given that the amount of
24 discovery is not as broad as Defendant argues, it is likely that Defendant already has a majority of
25 documents in his possession based on his initial review of the action.

26 Defendant also attempts to raise an issue based on the Discovery and Scheduling Order’s
27 failure to limit the disclosures to “discoverable information.” While the order may not specifically
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1 state that disclosures are limited to “discoverable information,” the context of the order, as well as
2 common sense, dictate that only discoverable information need be exchanged. Indeed, the order limits
3 Defendant’s disclosures to information regarding individuals “likely to have information about
4 Defendant(s)’ claims or defenses, or who will be used to support Defendant(s)’ version of the events
5 described in the complaint.” ECF No. 46, at 2.

6 Finally, insofar as Defendant objects to the requirement that Defendant produces materials in
7 the possession, custody or control of Defendant *and* CDCR, his objection fails. Defendant specifically
8 objects to the definition used in Allen v. Woodford, 2007 WL 309945 (E. D. Cal. 2007), cited in the
9 order, and contends that he is neither the Secretary of the CDCR nor a member of its executive staff
10 and does not have care, custody or control of documents and materials of the entire Department. Mot.
11 6. This standard, however, requires no more than production of information for which Defendant has
12 “the legal right to obtain” on demand. If a document does not fall within the definition of Allen, it
13 need not be produced. Certainly, Defendant will not have “possession, custody or control” of *all* of
14 CDCR’s documents. The order does not require Defendant to produce documents that he cannot
15 otherwise obtain in the course of his employment.

16 The above arguments are not persuasive and do not establish that the Discovery and
17 Scheduling Order, in general, is contrary to law or clearly erroneous.

18 Accordingly, Defendant’s motion is DENIED.

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20 IT IS SO ORDERED.

21 Dated: October 6, 2014

22 /s/ Lawrence J. O’Neill
23 UNITED STATES DISTRICT JUDGE
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