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**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

THOMAS GOOLSBY,	)	1:11cv01773 LJO DLB PC
	)	
Plaintiff,	)	ORDER VACATING ORDER GRANTING
	)	DEFENDANTS' MOTION FOR
vs.	)	PROTECTIVE ORDER
	)	(Document 59)
	)	
CATE, et al.,	)	ORDER DENYING MOTION FOR
	)	RECONSIDERATION AS MOOT
Defendants.	)	(Document 63)

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Plaintiff Thomas Goolsby (“Plaintiff”) is a prisoner in the custody of the California Department of Corrections and Rehabilitation (“CDCR”). Plaintiff is proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed this action on October 25, 2011.

This action is proceeding on First Amendment retaliation claims and due process claims against Defendants Holland, Steadman, Gutierrez, Noyce, Tyree, Gentry, Eubanks, Medrano and Holman.

On November 26, 2013, Defendants filed a Motion to Dismiss based on failure to state a claim and exhaustion. Defendants are not moving to dismiss the retaliation claim. The motion has been converted into a Motion for Summary Judgment and the Court is awaiting the parties’ further briefing, as well as their position on whether discovery related to exhaustion is necessary.

1 On March 25, 2014, Defendants filed a motion seeking a protective order relieving them  
2 of their obligation to respond to Plaintiff's written discovery. On April 2, 2014, the Court  
3 granted the motion without an opposition because discovery has not yet opened in this action.

4 On April 10, 2014, Plaintiff filed an opposition to the motion. He states that because  
5 Defendants are not moving to dismiss the retaliation claim, their motion for a protective order  
6 should be denied.

7 Upon consideration of Plaintiff's arguments, the Court VACATES the April 2, 2014,  
8 order granting Defendants' motion for a protective order. At the time the Court granted the  
9 order, it was not aware that the discovery related to a claim that was not at issue in the pending  
10 Motion for Summary Judgment.  
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12 Discovery has not yet opened in this action. However, in consideration of the length of  
13 time this action has been pending, as well as the fact that Plaintiff's retaliation claim will go  
14 forward regardless of the ruling on the Motion for Summary Judgment, the Court finds good  
15 cause to permit the discovery that has been served. This order does not permit Plaintiff to  
16 propound any additional discovery.

17 Accordingly, Defendants SHALL respond to the discovery that relates to the retaliation  
18 claim within thirty (30) days of the date of service of this order.

19 Plaintiff's motion for reconsideration is DENIED AS MOOT.  
20 IT IS SO ORDERED.

21 Dated: April 16, 2014

22 /s/ Dennis L. Beck  
23 UNITED STATES MAGISTRATE JUDGE  
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