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8 **UNITED STATES DISTRICT COURT**
9 **EASTERN DISTRICT OF CALIFORNIA**
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11 **MARCUS R. WILLIAMS,**

12 **Plaintiff,**

13 **v.**

14 **KELLY HARRINGTON, et al.,**

15 **Defendants.**

Case No. 1:12-cv-00226 LJO DLB PC

ORDER DISCHARGING ORDER TO
SHOW CAUSE
[ECF No. 61]

ORDER GRANTING PLAINTIFF'S
MOTIONS TO COMPEL
[ECF Nos. 49, 60]

ORDER DIRECTING DEFENDANTS TO
RESPOND TO PLAINTIFF'S FIRST SET OF
DISCOVERY SERVED ON

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18 Plaintiff Marcus R. Williams is a prisoner proceeding pro se and in forma pauperis in this
19 civil rights action.

20 I. Procedural History as to Discovery

21 Plaintiff is proceeding on his Complaint filed February 17, 2012. The Court screened the
22 Complaint and found that it stated a cognizable claim for relief under 42 U.S.C. § 1983 against
23 Defendants S. Rios and S. Steward for excessive force in violation of the Eighth Amendment,
24 Defendants D. Jayvinder and M. Stewart¹ for deliberate indifference to a serious medical need in
25 violation of the Eighth Amendment, and Defendants M.D. Biter, D. Page, Kelly Harrington, and
26

27 ¹ On August 15, 2014, the Court clarified that Defendant "M. Stewart," not "S. Stewart," was the proper defendant
28 for the Eighth Amendment medical care claim. Thus, the Court directed the U.S. Marshal Service to serve
Defendant M. Stewart.

1 M. Cabrera for deliberate indifference to conditions of confinement in violation of the Eighth
2 Amendment. The summons and complaint were thereafter served on Defendants. On October
3 16, 2013, Defendants Biter, Carrera, Harrington, Page, Rios, and S. Stewart filed an answer to
4 the Complaint. On October 18, 2013, a discovery and scheduling order was issued. The
5 discovery cut-off date was set for March 17, 2014, and the dispositive motion deadline was set
6 for May 16, 2014.

7 On March 13, 2014, Plaintiff served a request for an extension of time regarding
8 discovery deadlines. On March 19, 2014, Plaintiff served his initial discovery requests on
9 Defendants, including: interrogatories, request for production of documents, and request for
10 admissions. On May 19, 2014, Plaintiff filed a second motion for thirty day extension of time to
11 enlarge discovery deadlines. On May 27, 2014, the Court granted Plaintiff's May 19, 2014,
12 request to extend discovery deadlines, and extended the discovery deadline to June 30, 2014.

13 On July 28, 2014, Plaintiff filed a motion for an extension of time to serve discovery requests as
14 well as a motion to compel responses to his March 19, 2014, First Request for Production of
15 Documents, Interrogatories, and Request for Admissions. On August 11, 2014, the Court
16 granted Plaintiff's March 13, 2014, and July 28, 2014, motions for extensions of time concerning
17 discovery. On October 24, 2014, the Court stayed Defendants' motion for summary judgment
18 pending resolution of discovery issues. The parties were directed to file status reports within
19 twenty-one days. Plaintiff timely filed a status report on November 6, 2014, and renewed his
20 motion to compel. Defendants did not timely respond to the Court's order. Therefore, on
21 December 29, 2014, the Court issued an order directing Defendants to show cause why sanctions
22 should not be imposed for failure to comply with a court order. On December 29, 2014,
23 Defendants responded to the order to show cause and filed a status report.

24 II. Order to Show Cause

25 Local Rule 110 provides: "Failure of counsel or of a party to comply with these Rules or
26 with any order of the Court may be grounds for imposition by the Court of any and all sanctions
27 authorized by statute or Rule or within the inherent power of the Court."

28 Counsel for Defendant states she received the Court's order of October 24, 2014,

1 directing the parties to file status reports. Counsel states she duly prepared a status report on
2 November 6, 2014. However, the status report was never filed. Counsel states she believed the
3 status report had been filed and was not aware of the error until the Court issued its order to
4 show cause. The Court finds good cause to discharge the Order to Show Cause for excusable
5 neglect.

6 Accordingly, the Order to Show Cause of December 29, 2014, is DISCHARGED.

7 III. Status of Discovery

8 Plaintiff claims he timely served his initial discovery requests on Defendants on March
9 19, 2014. Plaintiff states Defendants have not responded to his requests. Therefore, Plaintiff has
10 filed motions for an order compelling Defendants to respond. Defendants claim Plaintiff's
11 discovery requests were untimely served. Therefore, Defendants maintain that a response is not
12 warranted.

13 Although the Court's orders extending deadlines for discovery may not have been
14 entirely clear, the Court in fact extended the discovery deadline pursuant to Plaintiff's request.
15 Plaintiff timely moved for an extension of time on March 13, 2014. Although the request was
16 not addressed until August 11, 2014, Plaintiff's request was granted. Therefore, Defendants are
17 DIRECTED to respond to Plaintiff's initial set of discovery requests. However, any additional
18 discovery propounded by Plaintiff subsequent to the initial set of requests will be considered
19 untimely.

20 **ORDER**

21 Accordingly, IT IS HEREBY ORDERED:

- 22 1) The Order to Show Cause of December 29, 2014, is DISCHARGED;
- 23 2) Plaintiff's Motions to Compel are GRANTED;
- 24 3) Defendants are ORDERED to RESPOND to Plaintiff's First Set of Discovery
25 Requests which were served on March 19, 2014, within thirty (30) days of the date of service of
26 this Order; and
- 27 4) Plaintiff MAY FILE, if necessary, a motion to compel responses to his discovery
28 requests within thirty (30) days of the date of service of Defendants' response to discovery, or

1 the expiration of thirty (30) days, whichever occurs first.

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3 IT IS SO ORDERED.

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Dated: January 16, 2015

/s/ Dennis L. Beck

UNITED STATES MAGISTRATE JUDGE

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