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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

LOC PHAT LE,

Plaintiff,

v.

JOHN CHOKATOS,

Defendant.

Case No. 1:12-cv-00460 AWI DLB PC

ORDER GRANTING DEFENDANT’S
MOTION TO COMPEL

[ECF No. 22.]

Plaintiff Loc Phat Le (“Plaintiff”), a former state prisoner proceeding pro se and in forma pauperis, filed this civil rights action pursuant to 42 U.S.C. § 1983 on March 27, 2012. This action is proceeding on Plaintiff’s complaint against Defendant Chokatos (“Defendant”) for violation of the Eighth Amendment of the United States Constitution.

Pending before the Court is Defendant’s motion to compel, filed on October 25, 2013. Plaintiff did not file a response to the motion and it is submitted on the record. Local Rule 230(l).

DISCUSSION

On May 30, 2013, the Court issued a scheduling order opening discovery. The Court set July 12, 2013, as the deadline for filing initial disclosures pursuant to Fed. R. Civ. P. 26(a). The deadline passed and Plaintiff did not provide his initial disclosures. On September 19, 2013, Defendant sent Plaintiff a letter reminding him of the Court’s Scheduling Order requiring Plaintiff to serve Defendant with his initial disclosures. [ECF No. 22, Motion to Compel, Marquez Dec.,

1 ¶2, Ex. A.] Defendant requested initial disclosures by September 30, 2013, or Defendant would
2 file a motion to compel. [Marquez Dec., ¶2.] Plaintiff did not provide his initial disclosures.

3 In addition, the Court set October 25, 2013, as the deadline for the completion of all
4 discovery. On September 19, 2013, Defendant served Plaintiff with interrogatories and a request
5 for the production of documents. Fed. R. Civ. P. 33(a), 34(a). [Marquez Dec., ¶4, Exs. B, C.]
6 Pursuant to the scheduling order, Plaintiff had thirty (30) days within which to serve a response.
7 [ECF No. 18.] Plaintiff did not serve a response to Defendant’s discovery requests. [Marquez
8 Dec., ¶4.]

9 Defendant seeks an order compelling Plaintiff to provide initial disclosures and respond to
10 his interrogatories and request for the production of documents. Fed R. Civ. P. 37(a)(1) provides:
11 “On notice to other parties and all affected persons, a party may move for an order compelling
12 disclosure. . . [T]he motion must include a certification that the movant has in good faith conferred
13 or attempted to confer with the person failing to make disclosure . . . in an effort to obtain it
14 without court action.” Plaintiff was obligated to provide initial disclosures and to respond to
15 Defendant’s interrogatories and request for the production of documents. Fed. R. Civ. P. 33(b),
16 34(b)(2). Plaintiff failed to serve his initial disclosures or his responses to the discovery requests,
17 and he failed to file an opposition to Defendant’s motion to compel. Defendant certifies that he
18 has in good faith attempted to confer with Plaintiff in an attempt to obtain disclosures without
19 court action.

20 **ORDER**

21 For the reasons discussed above, Defendants’ motion to compel is GRANTED. IT IS
22 HEREBY ORDERED that:

- 23 1. Plaintiff SHALL serve his initial disclosures and his responses to Defendant’s
24 interrogatories and request for production of documents on Defendant within thirty
25 (30) days of the date of this order. Plaintiff SHALL also file a notice of
26 compliance with the Court within this time confirming that disclosures have been
27 made;
- 28 2. The deadlines are extended as follows:

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Discovery cut-off: December 15, 2014

Dispositive Motions: February 13, 2015

Failure to comply with this order WILL result in further sanctions, including the possible dismissal of this action.

IT IS SO ORDERED.

Dated: September 17, 2014

/s/ Dennis L. Beck
UNITED STATES MAGISTRATE JUDGE