

1 **A. PLAINTIFF’S MOTION TO GRANT MOTION TO COMPEL**

2 On October 17, 2013, Plaintiff filed a motion entitled, “Motion to Grant Plaintiff’s
3 Default Motion for Defendants’ Failure to Oppose Plaintiff’s Motion to Compel.”

4 Plaintiff incorrectly calculates the due date of the opposition as and cites a Local Rule
5 that is no longer in effect. Plaintiff served the motion on September 12, 2013. Pursuant to Local
6 Rule 230(l) (providing for 21 days) and Federal Civil Rule of Civil Procedure 6(d) (providing for
7 an additional 3 days when served by mail), Defendants’ opposition was due a total of 24 days
8 later, or by October 6, 2013. Defendants’ opposition was filed with the Court and served on
9 Plaintiff on October 4, 2013, and was therefore timely.
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11 Accordingly, the motion is DENIED.

12 **B. LEGAL STANDARD**

13 “Parties may obtain discovery regarding any matter, not privileged, that is relevant to the
14 claim or defense of any party Relevant information need not be admissible at the trial if the
15 discovery appears reasonably calculated to lead to the discovery of admissible evidence.” Fed.
16 R. Civ. P. 26(b)(1). Defendants are required to “furnish such information as is available” to him
17 in responding to Plaintiff’s interrogatories, and documents which are in his “possession, custody
18 or control” in responding to Plaintiff’s request for the production of documents. Fed. R. Civ. P.
19 33(a), 34(a). If Defendant objects to one of Plaintiff’s discovery requests, it is Plaintiff’s burden
20 to demonstrate why the objection is not justified. Plaintiff must inform the court which
21 discovery requests are the subject of his motion to compel, and, for each disputed response,
22 inform the Court why the information sought is relevant and why Defendant’s objections are not
23 justified.
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25 **C. DISCUSSION**

26 As threshold matter, the Court rejects Defendants’ argument that the Court should not
27 consider Plaintiff’s motion because he failed to comply with the meet and confer requirements of
28 Federal Rule 37. The July 3, 2013, Discovery and Scheduling Order specifically states: “The

1 meet and confer requirement set forth in Federal Rule of Civil Procedure 37(a)(1) and Local
2 Rule 251(b) is *waived*. Voluntary compliance is encouraged, however.” (emphasis added).

3 1. Requests for Admission, Set One

4 Plaintiff first requests that the Court deem his Requests for Admissions, Set One,
5 admitted based on Defendants’ late response. On October 3, 2013, however, the Court granted
6 Defendants’ motion to deem their response timely. Accordingly, Plaintiff’s request is DENIED.

7 2. Request for Production of Documents, Set One, Number 2

8 A party may serve on any other party a request within the scope of Rule 26(b) to produce
9 and permit the requesting party or its representative to inspect, copy, test, or sample the
10 following items in the responding party’s possession, custody or control: any designated
11 documents or tangible things. Fed. R. Civ. P. 34(a)(1) (quotation marks omitted).

12 Plaintiff moves to compel a further response to Request for Interrogatories, Set One,
13 Number 2. The request seeks a “true and correct copy of your CDCR Code of Conduct and
14 General Qualifications.” Defendants objected to the request as vague and ambiguous, overly
15 broad and not reasonably calculated to lead to the discovery of admissible evidence. Without
16 waiving the objections, Defendants stated that the Code of Conduct and General Qualifications
17 are contained within the California Code of Regulations and the Department Operations Manual.
18 Defendant further explained that non-confidential sections of these regulations are located in the
19 prison law library and are available for inspection and copying pursuant to prison policy.

20 Plaintiff objects mainly because Defendants failed to point him to a specific section, page
21 or paragraph where the requested document could be found. Defendants contend, and the Court
22 agrees, that Plaintiff’s request is vague in that it does not identify the information sought with
23 sufficient detail. The lack of specificity also prevents Defendants from determining whether the
24 information sought is relevant. The requested documents cover a wide range of topics and surely
25 not every section and/or provision is relevant to Plaintiff’s claims. Plaintiff has not provided
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1 additional information in his motion to compel and he fails to meet his burden of showing why
2 the objections were not justified.

3 Moreover, as Defendants explained, the documents are equally available to Plaintiff in
4 the prison law library.

5 Accordingly, Plaintiff's motion to compel a further response to Request for Production
6 Number 2 is DENIED.

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8 3. Request for Admissions, Set Two

9 Finally, Plaintiff moves to compel further responses from Defendant Emerson to his
10 Request for Admissions, Set Two, Numbers 4 and 5.

11 In the opposition, Defendants state that they would, in the interest of cooperation, provide
12 supplemental responses to Numbers 4 and 5. On October 11, 2013, Defendants provided notice
13 to the Court that supplemental responses were served on Plaintiff.

14 Accordingly, the Court DENIES Plaintiff's motion to compel further responses to
15 Numbers 4 and 5 without prejudice.

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17 IT IS SO ORDERED.

18 Dated: October 31, 2013

19 /s/ Dennis L. Beck
20 UNITED STATES MAGISTRATE JUDGE