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

ANTHONY JOHNSON,)	Case No.: 1:12-cv-02044-SAB (PC)
)	
Plaintiff,)	
)	ORDER GRANTING PLAINTIFF’S MOTION TO
v.)	COMPEL DISCOVERY, GRANTING
)	PLAINTIFF’S MOTION TO EXTEND THE
DR. SISODIA, et al.,)	DEADLINE TO AMEND THE PLEADINGS, AND
)	GRANTING DEFENDANTS REQUEST TO
Defendants.)	EXTEND TIME TO RESPOND TO PLAINTIFF’S
)	DISCOVERY REQUESTS
)	
)	[ECF Nos. 28, 29, 31]
)	

Plaintiff Anthony Johnson is appearing pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. This action is proceeding on Plaintiff’s claim that he was denied adequate medical care in violation of the Eighth Amendment.

On October 16, 2014, Plaintiff filed a motion to compel responses to his pending discovery requests. (ECF No. 28.)

On October 27, 2014, Plaintiff filed a motion to extend the deadline to amend the pleadings, which expired November 16, 2014. (ECF No. 29.)

In response to court order, Defendants filed a statement of non-opposition to Plaintiff’s motions on December 15, 2014. (ECF Nos. 30, 31.)

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1 **I.**

2 **DISCUSSION**

3 Rule 37 of the Federal Rules of Civil Procedure provides that on notice to the other parties, a
4 party may move for an order compelling disclosure or discovery. Fed. R. Civ. P. 37(a). “If a party
5 fails to make a discovery required by Rule 26(a), any other party may move to compel disclosure and
6 for appropriate sanctions.” Fed. R. Civ. P. 37(a)(3).

7 Defense counsel does not oppose the grant of Plaintiff’s motion to compel based on the
8 calendaring error by counsel. On May 16, 2014, the Court issued a discovery and scheduling order,
9 setting the discovery cut-off deadline as January 16, 2015. On May 23, 2014, Plaintiff propounded
10 Requests for Production of Documents and Requests for Admissions on each of the four Defendants.
11 On May 29, 2014, Plaintiff propounded Requests for Interrogatories on each of the four Defendants.

12 Plaintiff’s discovery requests were not received by defense counsel until June 10, 2014. (ECF
13 No. 31, Decl. of Kelli Hammond at ¶¶ 2-3.) At that time, counsel was out of office due to a family
14 illness. Defendants requested and were granted an extension of time to serve their discovery
15 responses. However, the responses were never completed or served based on an oversight by counsel.
16 Defense counsel declares that the “failure to respond to Plaintiff’s discover[y] requests was based
17 solely on my unintentional errors. I failed to calendar the new date for responding to Plaintiff’s
18 discovery requests after seeking an extension of time. I also believed, wrongly it turned out, that this
19 matter was going to settle and Defendants’ discovery responses would be unnecessary. It was not
20 until Plaintiff filed his motion to compel that I investigated the matter and ascertained my errors.”
21 (ECF No. 31, Decl. of Kelli Hammond at ¶ 9.) Counsel requests until January 15, 2015, to respond to
22 Plaintiff’s pending discovery requests. Because Plaintiff indicates that he could not comply with the
23 deadline to amend the pleadings because of Defendants failure to respond to his discovery requests,
24 the Court will likewise extend the deadline to amend the pleading.

25 Based on Plaintiff’s motion to compel and defense counsel’s response thereto, the Court will
26 grant the motion to compel and on the basis of good cause will grant Defendants until January 16,
27 2015, to serve their discovery responses. However, the parties are cautioned that the failure to respond
28 to pending motions, by way of opposition or statement of non-opposition as required by Local Rule

1 230(l), impedes this Court's ability to efficiently rule on the merits of the motion and hinders the
2 Court's ability to move this case toward disposition, and may result in appropriate sanctions.

3 **II.**

4 **ORDER**

5 Based on the foregoing, IT IS HEREBY ORDERED that:

- 6 1. Plaintiff's compel to compel, filed October 16, 2014, is GRANTED;
- 7 2. Plaintiff's motion to extend the deadline to amend the pleadings, filed October 27,
8 2014, is GRANTED;
- 9 3. Defendants have to and including **January 16, 2015**, to serve their discovery
10 responses; and
- 11 4. The new deadline to amend the pleadings is **February 16, 2015**. All other provisions
12 of the Court's May 16, 2014, order remain in full force and effect.

13
14 IT IS SO ORDERED.

15 Dated: **December 22, 2014**



16 UNITED STATES MAGISTRATE JUDGE