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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

KEVIN D. BRYANT,
Plaintiff,

v.

R. ROMERO, et al.,
Defendants.

Case No. 1:12-cv-02074 DAD DLB PC

ORDER REGARDING PLAINTIFF'S
MOTIONS FOR SUBPOENAS DUCES
TECUM [ECF Nos. 53, 82]

ORDER AND NOTICE AUTHORIZING
ISSUANCE OF SUBPOENA DUCES TECUM
DIRECTING PRODUCTION OF
DOCUMENTS BY CHRISTIAN PFEIFFER,
WARDEN OF KVSP

ORDER DIRECTING CLERK'S OFFICE TO
SERVE COPY OF SUBPOENA WITH
ORDER

ORDER DISREGARDING PLAINTIFF'S
MOTION FOR COURT RULING
[ECF No. 75]

ORDER DENYING PLAINTIFF'S MOTION
AND SUPPLEMENTAL MOTION TO
COMPEL INITIAL DISCLOSURES AND
DISCOVERY RESPONSES
[ECF Nos. 68, 76]

ORDER DENYING PLAINTIFF'S MOTION
TO MODIFY THE SCHEDULING ORDER
[ECF No. 74]

Plaintiff Kevin D. Bryant ("Plaintiff") is a California state prisoner proceeding pro se in this civil action pursuant to 42 U.S.C. § 1983. Plaintiff filed this action on December 26, 2012. On

1 November 1, 2013, the Court dismissed the complaint. Plaintiff was granted leave to file an
2 amended complaint in accordance with the Federal Rules of Civil Procedure. On December 2, 2013,
3 Plaintiff filed a First Amended Complaint. Plaintiff named as Defendants: Correctional Lieutenant
4 Constance Waddle and Correctional Officer E. Castellanos. Plaintiff claims that Defendants violated
5 his First Amendment rights by retaliating against him. On March 25, 2015, Defendants Castellanos
6 and Waddle filed an answer.

7 On September 8, 2015, the Court issued a Discovery and Scheduling Order wherein the
8 deadline for providing initial disclosures was set for October 19, 2015, the deadline to amend
9 pleadings was set for January 4, 2016, the deadline for conducting discovery was set for February 1,
10 2016, and the deadline for filing dispositive motions was set for April 1, 2016.

11 On November 12, 2015, Plaintiff filed a motion for subpoena duces tecum (“SDT”) to obtain
12 internal California Department of Corrections and Rehabilitation (“CDCR”) investigation records
13 from the CDCR concerning Plaintiff and other inmates, as well as copies of claims filed by other
14 inmates with the California Victims Compensation and Government Claims Board (“VCGCB”)
15 against Defendant Waddle.

16 On January 6, 2016, Plaintiff filed a motion to compel Defendants to provide initial
17 disclosures as ordered by the Court as well as further discovery responses from Defendant
18 Castellanos.

19 On January 14, 2016, Plaintiff filed numerous motions. He filed a motion to extend time to
20 permit Plaintiff to amend the pleadings. He filed a motion for leave to serve a second Request for
21 Admissions (“RFA”) on Defendant Waddle. He filed a motion for the Court to rule on his
22 November 12, 2015, motion. Last, he filed a supplemental pleading to his motion requesting an
23 order to compel Defendants to provide initial disclosures.

24 On January 28, 2016, Defendants filed opposition to Plaintiff’s motions to compel.
25 Defendants also filed an opposition on February 4, 2016, to Plaintiff’s motion for extension of time.

26 On February 3, 2016, Plaintiff filed a motion to compel further responses to his
27 Interrogatories (“ROG”) and Request for Production of Documents (“RPD”) from Defendant
28 Waddle.

1 On February 5, 2016, Plaintiff filed a supplemental motion for Subpoena Duces Tecum
2 wherein he requests the Court to issue subpoenas directed to the non-parties set forth in his
3 November 12, 2015, motion. On March 9, 2016, Defendant Waddle filed an opposition to
4 Plaintiff's second motion to compel of February 3, 2016.

5 The Court will address each motion in turn.

6 **DISCUSSION**

7 **I. Motions for Issuance of Subpoena Duces Tecum**

8 As noted above, on November 12, 2015, Plaintiff filed a request for issuance of a SDT
9 directed to CDCR staff and the VCGCB. As to the CDCR, Plaintiff seeks all CDCR internal
10 investigation records and recorded interviews of inmates Cleave McCloud and Edward A. Vargas
11 regarding the allegations in his complaint. Plaintiff states that ISU Lt. J. Stiles conducted an
12 investigation concerning Plaintiff's allegations of retaliatory conduct by Defendants Waddle and
13 Castellanos between the period of July 12, 2010, and March 8, 2013. Plaintiff states that Defendants
14 refused to disclose the information contained in confidential investigations because they are not in
15 possession, custody or control of the internal investigations, but the CDCR is.

16 Plaintiff further requests a SDT directed to the California VCGCB in Sacramento to obtain a
17 copy of the government claims filed by inmate Cleave McCloud against Defendant Waddle for her
18 alleged use of McCloud to commit assaults. Plaintiff also seeks copies of the claim McCloud filed
19 concerning another officer named Sanchez who Defendant Waddle supervised and also allegedly
20 conspired to have McCloud attacked. Next, Plaintiff seeks a SDT directed to Secretary Jeffrey
21 Beard and Secretary Scott Kernan for all records and recorded interviews of investigations
22 conducted by OIA Special Agents Gerald Biane, Ricardo Christensen, and Jorge Rodriguez into
23 Plaintiff's staff misconduct complaints which include statements and allegations made against KVSP
24 officials by inmates McCloud and Vargas; those officials include Defendants Waddle and
25 Castellanos, and Correctional Officers Patrick Gallagher and R. Romero. Next, Plaintiff seeks a
26 SDT directed to Warden Martin D. Biter of KVSP (or the current Warden if different) for all the
27 records and recordings of any investigations conducted by ISU staff and any other officials at KVSP
28 including Defendant Waddle, her captains, her sergeants, Lt. P. Morales, Lt. P. Chanelo, and Lt.

1 Tyson. Plaintiff seeks every record including every single recording, report, email, electronically
2 stored data, rough draft of record, personal note, and writing of the investigations into the assault
3 allegations against Defendants. In addition, Plaintiff seeks all records of all investigations conducted
4 by ISU, OIA, and any CDCR official into any allegation of assault against Defendants by a KVSP
5 inmate, including any allegations that they were assaulted by Defendants, that Defendants had other
6 staff or inmates assault them, or that they were in any way involved in the inmate being assaulted,
7 whether the allegations was substantiated or unfounded. Plaintiff notes such allegations were made
8 by inmates Luis Flores, Leonard Scott, and Cleave McCloud. Plaintiff further requests the personnel
9 records of both Defendants that refer or mention any allegation of assaulting or directing an assault
10 against inmates.

11 “Parties may obtain discovery regarding any nonprivileged matter that is relevant to any
12 party’s claim or defense. . . . Relevant information need not be admissible at the trial if the
13 discovery appears reasonably calculated to lead to the discovery of admissible evidence.” Fed. R.
14 Civ. P. 26(b)(1). For document production requests, responding parties must produce documents
15 which are in their “possession, custody or control.” Fed. R. Civ. P. 34(a)(1). “Property is deemed
16 within a party’s ‘possession, custody, or control’ if the party has actual possession, custody, or
17 control thereof or the legal right to obtain the property on demand.” Allen v. Woodford, No. CV-F-
18 05-1104 OWW LJO, 2007 WL 309945, *2 (E.D.Cal. Jan. 30, 2007) (citing In re Bankers Trust Co.,
19 61 F.3d 465, 469 (6th Cir. 1995)); accord Bovarie v. Schwarzenegger, No. 08cv1661 LAB (NLS),
20 2011 WL 719206, at *4 (S.D.Cal. Feb. 22, 2011); Evans v. Tilton, No. 1:07CV01814 DLB PC, 2010
21 WL 1136216, at *1 (E.D.Cal. Mar. 19, 2010). Alternatively, a party may seek the production of
22 documents from a nonparty via service of a subpoena duces tecum. Fed. R. Civ. P. 45.

23 Subject to certain requirements, Plaintiff is entitled to the issuance of a subpoena
24 commanding the production of documents, electronically stored information, and/or tangible things
25 from a nonparty, Fed. R. Civ. P. 45, and to service of the subpoena by the United States Marshal, 28
26 U.S.C. 1915(d). However, the Court will consider granting such a request only if the documents or
27 items sought from the nonparty are not equally available to Plaintiff and are not obtainable from
28 Defendants through a request for the production of documents, electronically stored information,

1 and/or tangible things. Fed. R. Civ. P. 34. If Defendants object to Plaintiff's discovery request, a
2 motion to compel is the next required step. If the Court rules that the documents, electronically
3 stored information, and/or tangible things are discoverable but Defendants do not have care, custody,
4 and control of them, Plaintiff may then seek a subpoena. Fed. R. Civ. P. 26(b), 34(a)(1).
5 Alternatively, if the Court rules that the documents or items are not discoverable, the inquiry ends.
6 Fed. R. Civ. P. 26(b).

7 In this case, Plaintiff states he does not have access to the items sought, and he has requested
8 production of the items from Defendants but has been advised that Defendants are not in possession,
9 custody or control of them. Plaintiff states Defendants have stated that such documents would be in
10 the possession, custody or control of CDCR. Plaintiff further argues that the documents are relevant
11 to his claims.

12 The Court finds Plaintiff's requests to be overbroad. It is not limited to the specific event at
13 issue in this action and goes well beyond the scope to the alleged actions of Defendants. Plaintiff's
14 request for documents related to complaints made by other inmates or concerning other inmates is
15 not relevant to his claims or defenses in this matter. In addition, the request is overly burdensome on
16 the nonparties. The task of uncovering all of the information Plaintiff seeks would entail looking at
17 the central file of every inmate who was at Kern Valley State Prison between 2008 to present. Also,
18 the Court finds that disclosure of the voluminous amount of investigation documents that Plaintiff
19 seeks would compromise the security of the institution as it would certainly reach well beyond the
20 legitimate inquiries necessary to this litigation and could result in the production of confidential or
21 privileged information. Moreover, it appears that much of what Plaintiff seeks is designed to
22 uncover character evidence, which is inadmissible. Fed. R. Evid. 404(a)(1) (evidence of a person's
23 bad character or character trait is not admissible to prove that on a particular occasion the person
24 acted in accordance with the character or trait); Gates v. Rivera, 993 F.2d 697, 700 (9th Cir. 1993).

25 Nevertheless, to the extent they exist, the specific investigations by the CDCR into Plaintiff's
26 staff complaint allegations concerning retaliatory acts by Defendants Waddle and Castellanos are
27 relevant to his claims and discoverable. Accordingly, the Court will grant Plaintiff's motion for
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1 subpoena duces tecum directed to Christian Pfeiffer, the current acting warden of KVSP¹, for all
2 records and recorded interviews of all internal investigations conducted by CDCR including OIA
3 and ISU staff into Plaintiff’s allegations of staff misconduct against Defendants Waddle and
4 Castellanos, to the extent such documentation exists. Plaintiff’s motion for subpoenas duces tecum
5 is DENIED in all other respects. Plaintiff’s January 14, 2016, motion for a court ruling on his
6 November 12, 2015, motion is DISREGARDED as moot.

7 **II. Motion to Compel Initial Disclosures and Discovery Responses**

8 On January 14, 2016, Plaintiff filed a motion to compel initial disclosures and discovery
9 responses from Defendant Castellanos. On January 14, 2016, Plaintiff filed a supplement to his
10 motion. Defendant Castellanos filed an opposition to the motion to compel on January 28, 2016.

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

22 **A. Initial Disclosures**

23 In the Court’s Discovery and Scheduling Order of September 8, 2015, the parties were
24 directed to provide initial disclosures. (ECF No. 44.) Defendant Castellanos provided initial
25 disclosures to Plaintiff; however, Plaintiff contends that the initial disclosures were incomplete.
26 Plaintiff contends that Defendant failed to produce certain documents that are in the custody of the
27

28 ¹ California Department of Corrections and Rehabilitation website,
http://www.cdcr.ca.gov/Facilities_Locator/KVSP.html (last visited March 23, 2016).

1 Investigative Services Unit (“ISU”) and the Office of Internal Affairs (“OIA”). Defendant objects to
2 Plaintiff’s request because Defendant states he is not in possession, custody or control of said
3 documents. The Court accepts Defendant’s objection, and Plaintiff’s request is denied. However,
4 Defendant is cautioned that information included in these documents may be excluded at in deciding
5 motions and/or trial, unless Defendant can demonstrate he came by the information by use of the
6 discovery process.

7 **B. Interrogatories**

8 In addition, Plaintiff seeks to compel further responses to his interrogatories as follows.

9 **ROG 1:** State in detail the exact number of staff misconduct complaints that were filed
10 against you by any inmates between January 1, 2008 and the present date of your response.

11 **Defendant’s Response:** Defendant objects to this request as vague as to the term “staff
12 misconduct complaints.” Assuming that the term refers to inmate appeals filed through the 602
13 process defined by title 15 of the California Code of Regulations, sections 3084 et seq., Defendant
14 also objects to this request as overbroad and not likely to lead to the discovery of admissible
15 evidence. Whether other inmates have filed an inmate appeal alleging that Defendant failed to
16 competently fulfill any of his duties as a correctional officer is not relevant evidence that Defendant
17 may have engaged in retaliatory conduct against Bryant. The request is also overly burdensome.
18 There is no database of all inmate appeals that have been filed since January 2008 that is searchable
19 by whether an individual officer is named in the inmate appeal. Instead, Defendant would need to
20 search the prison file of each inmate who was housed at the prison during the requested time period
21 to determine whether he was named in an inmate appeal. There are potentially hundreds of
22 qualifying inmates. Without waiving any of these objections, Defendant can state that he is aware
23 that Bryant filed one inmate appeal alleging that Castellanos failed to competently fulfill his duties
24 as a correctional office during the requested time period.

25 **Plaintiff’s Argument:** The term “staff misconduct complaint” is not vague to this Defendant
26 and this objection [sic] is without merit and evasive. Title 15 of the CCR, section 3084.9(i) et seq clearly
27 sets forth what the term “staff misconduct complaint” means. This interrogatory is not overbroad as it
28 asks only the exact number of staff misconduct complaints that were filed against Castellanos between a

1 specific time frame, from January 2008 to the present. The CDCR Operations manual (DOM) and the
2 KVSP Operational Procedure (OP) regarding the “Allegation of Staff Misconduct Complaint Procedure,”
3 which is based on California state law, Penal Code §832.5 clearly set forth the extensive and elaborate
4 record keeping and retention procedures for “all” staff misconduct complaints, whether made on 602
5 appeals, confidential “notes” or “kites,” or made verbally by any inmates to any custody official or
6 person considered a peace officer. Penal Code §832.5(b) requires the Department of Corrections to retain
7 “citizen complaints,” (which includes staff misconduct complaints) and related reports or findings for “at
8 least five years.” Each warden and RPA shall maintain a filing system containing copies of each citizens
9 complaint filed by citizens other than the inmates/parolees and the written responses thereto as well as
10 inmate/parolee appeals that allege peace officer misconduct. See DOM §54100.25 through 54100.27, and
11 KVSP OP section regarding staff misconduct complaint procedure, from sections IV, “approval” and
12 “review” through section VIII “allegations of excessive and/or unnecessary force,” and also see title 15
13 of the CCR §3382 for the law on the existence of these reports. Defendant Castellanos’ objections are
14 knowingly false, unjustified and without merit and the information can be obtained from the sources
15 above and his response must be substantively supplemented.

16 **Ruling:** Denied. Defendant’s objection that the term “staff misconduct complaint” is vague is
17 overruled. Nevertheless, whether Castellanos was named in other inmate complaints is irrelevant to the
18 question of whether Castellanos retaliated against Plaintiff. In addition, the request is overly burdensome
19 as it would require Defendant to search potentially hundreds of inmate files to determine if he was named
20 in a complaint.

21 **ROG 2:** State in detail the exact number of staff misconduct complaints filed against you by any
22 inmates between January 1, 2008 and the present date of your response for which you were investigated
23 by the Institution Services Unit (ISU) or CDCR’s Office of Internal Affairs (OIA).

24 **Defendant’s Response:** Defendant objects to this request as vague as to the term “staff
25 misconduct complaints.” Assuming that the term refers to a staff complaint defined by title 15 of the
26 California Code of Regulations, section 3084.9, subdivision (1)(i), Defendant also objects to this request
27 as overbroad and not likely to lead to the discovery of admissible evidence. Whether other inmates have
28 filed a staff complaint alleging that Defendant engaged in misconduct is not relevant evidence that

1 Defendant may have engaged in retaliatory conduct against Bryant. Further, not every staff complaint
2 filed by an inmate is referred to ISU or OIA. Cal. Code Regs. tit. 15, 3084.9, (i)(3). In addition,
3 investigations by the ISU or OIA are confidential and not necessarily disclosed to officers who may be
4 subject of an investigation. Without waiving any of these objections, Defendant can also state that he is
5 aware the Bryant filed one staff complaint as defined by defined by title 15 of the California Code of
6 Regulations, section 3084.9, subdivision (1)(i), alleging that he conspired to have Bryant assaulted and
7 engage in other misconduct in retaliation for filing inmate appeals. That staff complaint, however, was
8 not referred to OIA for further investigation. Defendant can also state that he is unaware of any other
9 staff complaint alleging that he engaged in misconduct that has been investigated by either ISU or OIA
10 within the requested time period.

11 **Plaintiff's Argument:** Plaintiff incorporates his contention re Interrogatory No. 1 set forth above
12 as though fully set forth right here, and based thereon, Castellanos' response must be corrected and
13 substantively supplemented immediately.

14 **Ruling:** Denied for the same reasons stated in ROG 1.

15 **ROG 3:** Identify all inmates by name and CDCR number who have filed a 602 appeal or staff
16 misconduct complaint against you alleging you assaulted them without cause or provocation between
17 January 1, 2008 and the date of your response.

18 **Defendant's Response:** Defendant objects to this request as vague as to the term "staff
19 misconduct complaints." Assuming that the term refers to a staff complaint defined by title 15 of the
20 California Code of Regulations, section 3084.9, subdivision (1)(i), Defendant also objects to this request
21 as overbroad and not likely to lead to the discovery of admissible evidence. Whether other inmates have
22 filed either an inmate appeal or a staff complaint alleging that Defendant wrongfully assaulted an inmate
23 is not relevant evidence that Defendant may have engaged in retaliatory conduct against Bryant. The
24 request is also overly burdensome. There is no database of all inmate appeals that have been filed since
25 January 2008 that is searchable by whether an individual officer is named in the inmate appeal. Instead,
26 Defendant would need to search the prison file of each inmate who was housed at the prison during the
27 requested time period to determine whether he was named in an inmate appeal. There are potentially
28 hundreds of qualifying inmates. Further, whether other inmates have filed staff complaint alleging that

1 Defendant wrongfully assaulted an inmate is not relevant evidence that Defendant may have engaged in
2 retaliatory conduct against Bryant. Further, not every staff complaint filed by an inmate is referred to
3 ISU or OIA. Cal. Code Regs. tit. 15, 3084.9, (i)(3). In addition, investigations by the ISU or OIA are
4 confidential and not necessarily disclosed to officers who may be subject of an investigation. Without
5 waiving any of these objections, Defendant can state that he is unaware of any inmate appeal alleging
6 that he wrongfully assaulted an inmate or a staff complaint alleging that he wrongfully assaulted an
7 inmate that has been investigated by either ISU or OIA within the requested time period.

8 **Plaintiff's Argument:** Plaintiff incorporates his contention re Interrogatory No. 1 set forth above
9 as though fully set forth right here, and based thereon, Castellanos' response must be corrected and
10 substantively supplemented immediately.

11 **Ruling:** Denied for the same reasons set forth in ROG 1.

12 **ROG 4:** Identify all inmates by name and CDCR number who have filed a 602 appeal or staff
13 misconduct complaint against you alleging you had them assaulted by any other inmates(s) between
14 January 1, 2008 and the date of your response.

15 **Defendant's Response:** Defendant objects to this request as vague as to the term "staff
16 misconduct complaints." Assuming that the term refers to a staff complaint defined by title 15 of the
17 California Code of Regulations, section 3084.9, subdivision (1)(i), Defendant also objects to this request
18 as overbroad and not likely to lead to the discovery of admissible evidence. Whether other inmates have
19 filed either an inmate appeal or a staff complaint alleging that Defendant wrongfully conspired to have
20 an inmate assaulted is not relevant evidence that Defendant engaged in retaliatory conduct against
21 Bryant. The request is also overly burdensome. There is no database of all inmate appeals that have been
22 filed since January 2008 that is searchable by whether an individual officer is named in the inmate
23 appeal. Instead, Defendant would need to search the prison file of each inmate who was housed at the
24 prison during the requested time period to determine whether he was named in an inmate appeal. There
25 are potentially hundreds of qualifying inmates. Further, whether other inmates have filed a staff
26 complaint alleging that Defendant wrongfully conspired to have an inmate assaulted is not relevant
27 evidence that Defendant have engaged in retaliatory conduct against Bryant. Further, not every staff
28 complaint filed by an inmate is referred to ISU or OIA. Cal. Code Regs. tit. 15, 3084.9, (i)(3). In

1 addition, investigations by the ISU or OIA are confidential and not necessarily disclosed to officers who
2 may be subject of an investigation. Without waiving any of these objections, Defendant can state that he
3 is aware Bryant (CDC # D-56620) filed a staff complaint as defined by defined by title 15 of the
4 California Code of Regulations, section 3084.9, subdivision (1)(i), alleging that he conspired to have
5 Bryant assaulted. Due to the passage of time, Defendant cannot recall whether he responded to Bryant's
6 staff complaint. The Department's records, however, indicate that no witnesses were questioned
7 regarding Bryant's staff complaint. That staff complaint was also not referred to OIA for further
8 investigation. Defendant can also state that he is unaware of any other staff complaint alleging that he
9 wrongfully conspired to have an inmate assaulted that has been investigated by either ISU or OIA within
10 the requested time period.

11 **Plaintiff's Argument:** Plaintiff incorporates his contention re Interrogatory No. 1 set forth above
12 as though fully set forth right here, and based thereon, Castellanos' response must be corrected and
13 substantively supplemented immediately. And please take judicial notice that in this response Defendant
14 states that "The Department's records, however, indicate that no witnesses were questioned regarding
15 Bryant's staff complaint." This clearly indicate that Defendant obtained access to confidential ISU and
16 investigation records to make this response and thus has the right to obtain the confidential investigation
17 information for all Plaintiff's requests.

18 **Ruling:** Denied for the same reasons set forth in ROG 1. In addition, Defendant has responded
19 that he is unaware of any staff complaint, other than Plaintiff's, wherein an inmate alleged that
20 Defendant had conspired to have an inmate assaulted.

21 Plaintiff further alleges that Defendant's response contains an admission that he has access to
22 ISU and OIA records in that Castellanos referred to "the Department's records." However, Defendant
23 responds that he was not referring to ISU and OIA records, but Plaintiff's appeal KVSP-0-11-01078 that
24 was provided in initial disclosures. The Court finds no reason to question Defendant's response since the
25 appeal does in fact provide that no witnesses were interviewed and no referral to ISU or OIA was made.
26 (ECF No. 77, Ex. 3.)

27 **ROG 5:** Identify all ISU and OIA staff by name and employee I.D. number who have questioned
28 or interviewed you in an investigation in regard to allegations of staff misconduct made against you by

1 any inmates between January 1, 2008 and the date of your response.

2 **Defendant’s Response:** Defendant objects to this request as overbroad and not likely to lead to
3 the discovery of admissible evidence. Without waiving any of these objections, Defendant can state that
4 he is aware that Bryant filed a staff complaint as defined by defined by title 15 of the California Code of
5 Regulations, section 3084.9, subdivision (1)(i), alleging that he conspired to have Bryant assaulted. That
6 staff complaint, however, was not referred to OIA for further investigation. Defendant can also state that
7 he is unaware of any other staff complaint alleging that he engaged in misconduct that has been
8 investigated by either ISU or OIA within the requested time period. Thus, he cannot provide the
9 requested information.

10 **Plaintiff’s Argument:** Plaintiff incorporates his contention re Interrogatory No. 1 set forth above
11 as though fully set forth right here, and based thereon, Castellanos’ response must be corrected and
12 substantively supplemented immediately. Plaintiff also incorporates his “Summary Statement and
13 general Argument” below as though fully set forth right here.

14 **Ruling:** Denied for the same reasons set forth in ROG 1. In addition, Defendant has responded
15 that he unaware of any such investigation.

16 **ROG 6:** Describe in detail each and every act while at work at KVSP for which you were
17 investigated and received disciplinary action against you by CDCR between January 1, 2008 and the date
18 of your response.

19 **Defendant’s Response:** Defendant objects to this request as overbroad and not likely to lead to
20 the discovery of admissible evidence. Whether the hiring authority investigated and subsequently
21 disciplined Defendant for allegedly failing to competently fulfill his duties as a correctional officer for
22 conduct not related to the allegations in Bryant’s Amended Complaint is not relevant evidence that
23 Defendant may have engaged in retaliatory conduct against Bryant.

24 In addition, Defendant separately objects to the production of such information as privileged
25 “official information.” Attached to this response is a privilege log and a declaration in support of the
26 privilege.

27 **Plaintiff’s Argument:** Plaintiff incorporates his contention re Interrogatory No. 1 set forth above
28 and his Summary Statement and General Argument set forth below as though fully set forth right here,

1 and based thereon, Castellanos' response must be corrected and substantively supplemented
2 immediately.

3 **Ruling:** Denied for the same reasons set forth in ROG 1.

4 **ROG 7:** State all the dates on which you were interviewed or questioned in any investigations
5 regarding all the allegations plaintiff made against you in all the 602 appeals and staff misconduct
6 complaints he filed against you.

7 **Defendant's Response:** Due to the passage of time, Defendant cannot recall whether he was
8 interviewed, when he was interview, or any details regarding an interview conducted as a result of either
9 the inmate appeal or staff complaint filed by Bryant. The Department's records, however, indicate that
10 Defendant was interviewed on October 11, 2011, regarding Bryant's inmate appeal Log Number KVSP-
11 0-11-01228.

12 **Plaintiff's Argument:** Plaintiff incorporates his contentions re Interrogatory No. 1 set forth
13 above and his Summary Statement and General Argument set forth below as though fully set forth right
14 here, and based thereon, Castellanos' response must be corrected and substantively supplemented
15 immediately from the same "Department's records" mentioned.

16 **Ruling:** Denied. Defendant provided a sufficient response to the interrogatory. Plaintiff's
17 disagreement with Defendant's response is not cause to object.

18 **ROG 8:** Describe in detail all questions that were asked and the answers you gave in response
19 thereto in all the interviews in response to interrogatory No. 8 above including the name(s) and employee
20 I.D. numbers of the interviewer(s)/investigator(s).

21 **Defendant's Response:** Due to the passage of time, Defendant cannot recall whether he was
22 interviewed, when he was interview, or any details regarding an interview conducted as a result of either
23 the inmate appeal or staff complaint filed by Bryant. The Department's records, however, indicate that
24 Defendant was interviewed regarding Bryant's inmate appeal Log Number KVSP-0-11-01228. The
25 Department's records for that appeal also indicate that Defendant stated that he confiscated an A/C
26 Adapter and disposed of it due to it being in altered condition. The Department's records further indicate
27 that Defendant denied removing any items other than those indicated on the CDCR 1083 form.

28 **Plaintiff's Argument:** Plaintiff incorporates His contentions re Interrogatory No. 1 set forth

1 above and his Summary Statement and General Argument set forth below as though fully set forth right
2 here, and based thereon, Castellanos' response must be corrected and substantively Supplemented
3 immediately from the same "Department's records" mentioned in His response.

4 **Ruling:** Denied. Defendant has sufficiently responded to the interrogatory.

5 **ROG 9:** Describe in detail the location of all the records and recorded interviews regarding all
6 the investigations that were conducted by ISU or OIA staff regarding all the allegations plaintiff made
7 against you in all the 602 appeals and staff misconduct complaints he filed against you. Please state the
8 full name, title, and employee number of the custodian of all those records.

9 **Defendant's Response:** Defendant objects to this request as vague as to the term "staff
10 misconduct complaints." Without waiving that objection and assuming that the term refers to a staff
11 complaint defined by title 15 of the California Code of Regulations, section 3084.9, subdivision (1)(i),
12 investigations by the ISU or OIA are confidential and not necessarily disclosed to officers who may be
13 subject of an investigation. Defendant can state that he is unaware of any investigation by ISU or OIA
14 due to Bryant's allegations that Defendant engaged in misconduct. Thus, he has no information whether
15 any records exist and cannot provide the requested information.

16 **Plaintiff's Argument:** Plaintiff incorporates his contentions re Interrogatory No. 1 set forth
17 above and His Summary Statement and General Argument set forth below as though fully set forth right
18 here, and based thereon, Castellanos' response must be corrected and substantively supplemented
19 immediately from the same "Department's records" mentioned in His response.

20 **Ruling:** Denied. Defendant's objection that the term "staff misconduct complaints" is vague is
21 overruled. Nevertheless, Defendant has sufficiently responded that he is unaware of any investigation by
22 ISU or OIA, and therefore has no knowledge that any records exist.

23 **ROG 10:** Describe in detail the location of all the records and recorded interviews regarding all
24 the investigations that were conducted by ISU, OIA, or any CDCR official regarding all the 602 appeals
25 and staff misconduct complaints filed by all KVSP inmates in which they made allegations that either
26 you assaulted them or had other inmate(s) assault them between January 1, 2008 and the date of your
27 response. Please state the full name, title, and employee number of the custodian of all those records.

28 **Defendant's Response:** Defendant objects to this request as vague as to the term "staff

1 misconduct complaints.” Assuming that the term refers to a staff complaint defined by title 15 of the
2 California Code of Regulations, section 3084.9, subdivision (1)(i), Defendant also objects to this request
3 as overbroad and not likely to lead to the discovery of admissible evidence. Whether other inmates have
4 filed either an inmate appeal or a staff complaint alleging that Defendant wrongly assaulted an inmate or
5 wrongfully conspired to have an inmate assaulted is not relevant evidence that Defendant may have
6 engaged in retaliatory conduct against Bryant. The request is also overly burdensome. There is no
7 database of all inmate appeals that have been filed since January 2008 that is searchable by whether an
8 individual officer is named in the inmate appeal. Instead, Defendant would need to search the prison file
9 of each inmate who was housed at the prison during the requested time period to determine whether he
10 was named in an inmate appeal, and then, provide the location of any relevant material. There are
11 potentially hundreds of qualifying inmates. In addition, whether other inmates have filed a staff
12 complaint alleging that Defendant wrongfully assaulted an inmate or wrongfully conspired to have an
13 inmate assaulted is not relevant evidence that Defendant engaged in retaliatory conduct against Bryant.
14 Further, not every staff complaint filed by an inmate is referred to ISU or OIA. Cal. Code Regs. tit. 15,
15 3084.9, (i)(3). Thus, he has no information whether any records exist and cannot provide the requested
16 information.

17 **Plaintiff’s Argument:** Plaintiff incorporates his contentions re Interrogatory No. 1 set forth
18 above and His Summary Statement and General Argument set forth below as though fully set forth right
19 here, and based thereon, Castellanos’ response must be corrected and substantively supplemented
20 immediately from the same “Department’s records” He mentioned in His prior responses to Interrogatory
21 No. 4-8 above.

22 **Ruling:** Denied for the same reasons stated in ROG 1.

23 **ROG 12:** Identify all inmates by name and CDCR number who filed 602 appeals and staff
24 misconduct complaints in which they made allegations that you confiscated or damaged their personal
25 property at KVSP between January 1, 2008 to the date of your response.

26 **Defendant’s Response:** Defendant objects to this request as vague as to the term “staff
27 misconduct complaints.” Assuming that the term refers to a staff complaint defined by title 15 of the
28 California Code of Regulations, section 3084.9, subdivision (1)(i), Defendant also objects to this request

1 as overbroad and not likely to lead to the discovery of admissible evidence. Whether other inmates have
2 filed either an inmate appeal or a staff complaint alleging that Defendant wrongfully confiscated or
3 damaged their property is not relevant evidence that Defendant allegedly engaged in retaliatory conduct
4 against Bryant. The request is also overly burdensome. There is no database of all inmate appeals that is
5 searchable by whether an individual officer is named in the inmate appeal. Instead, Defendant would
6 need to search the prison file of each inmate who was housed at the prison during the requested time
7 period to determine whether he was named in an inmate appeal and whether the appeal concerned
8 property. There are potentially hundreds of qualifying inmates.

9 **Plaintiff's Argument:** Plaintiff incorporates his contentions re Interrogatory No. 1 set forth
10 above and his Summary Statement and General Argument set forth below as though fully set forth right
11 here, and based thereon, Castellanos' response must be corrected and substantively supplemented
12 immediately from the same "Department's records" He mentioned in His prior responses to Interrogatory
13 No. 4-8 above.

14 **Ruling:** Denied for the same reasons set forth in ROG 1.

15 **ROG 13:** Identify all inmates named in your response to interrogatory No. 12 above who were
16 assaulted by you or involved in mutual combats with other inmates between January 1, 2008 and the date
17 of your response.

18 **Defendant's Response:** Defendant objects to this request as overbroad and not likely to lead to
19 the discovery of admissible evidence. Whether other inmates have filed either an inmate appeal or a staff
20 complaint alleging that Defendant wrongfully confiscated or damaged their property, and who were also
21 subsequently assaulted, is not relevant evidence that Defendant engaged in retaliatory conduct against
22 Bryant. The request is also overly burdensome. There is no database of all inmate appeals that is
23 searchable by whether an individual officer is named in the inmate appeal. Instead, Defendant would
24 need to search the prison file of each inmate who was housed at the prison during the requested time
25 period to determine whether he was named in an inmate appeal, whether the appeal concerned property,
26 and whether that inmate was later assaulted. There are potentially hundreds of qualifying inmates.

27 **Plaintiff's Argument:** Plaintiff incorporates His contentions re Interrogatory No. 1 set forth
28 above and his Summary Statement and General Argument set forth below as though fully set forth right

1 here, and based thereon, Castellanos' response must be corrected and substantively supplemented
2 immediately using the same "Department's records" He mentioned in His prior responses to
3 Interrogatory No. 4-8 above.

4 **Ruling:** Denied for the same reasons stated in ROG 1. In addition, Defendant has responded that
5 no such staff complaints exist.

6 The Court next turns to Plaintiff's request to compel Defendant to respond to his Request for
7 Admissions ("RFA").

8 **RFA 1:** Admit that between January 1, 2010 and the date of your response that you have been
9 investigated by the Kern Valley State Prison (KVSP) Institution Services Unit (ISU) staff regarding
10 allegations or complaints that you illegally assaulted inmates or had inmates to assault other inmates for
11 you.

12 **Defendant's Response:** Defendant objects to this request as overbroad and not likely to lead to
13 the discovery of relevant evidence. Whether ISU has investigated Defendant for allegedly wrongfully
14 assaulting inmates or having inmates assaulted is not related to the allegations in Bryant's Amended
15 Complaint is not relevant evidence that Defendant allegedly engaged in retaliatory conduct against
16 Bryant. Without waiving this objection, Defendant can neither admit or deny whether he has been
17 investigated by ISU staff regarding allegations or complaints that he illegally assaulted inmates or had
18 inmates to assault other inmates. Investigations by ISU are confidential and not disclosed unless referred
19 for an adverse action.

20 **Plaintiff's Argument:** Defendant Castellanos' contention that this request of overbroad and that
21 ISU investigations are confidential and not disclosed unless referred for an adverse action are evasive
22 and lack merit. Also His contention that His pattern of these same types of abuses committed against
23 other inmates is not related to Plaintiff's allegations in His FAC and that its not relevant evidence that He
24 did the same thing to Plaintiff is false and not relevant. Defendants remaining response is evasive and
25 fails to evidence the requisite good faith effort to respond to a request which seeks discoverable
26 information. Defendant failed to comply with Rule 36(a)(4), which requires the statement that a
27 reasonable inquiry was made and the information he knows or can readily obtain is insufficient to enable
28 him to admit or deny. Plaintiff also incorporates his Summary Statement and General Argument set forth

1 below as though fully set forth right here, and based thereon, Castellanos' response must be corrected
2 and supplemented immediately using the same "Department's records" he mentioned in His response to
3 Interrogatory No. 4-8, as Defendant obviously had access to CDCR records and investigations
4 information in order to make those responses.

5 **Ruling:** Denied. Evidence concerning allegations of other inmates is beyond the scope of
6 discovery. In addition, Defendant has responded that he is unaware of any such investigations.

7 **RFA 2:** Admit that between January 1, 2010 and the date of your response that you have been
8 investigated by CDCR's Office of Internal Affairs (OIA) staff regarding allegations or complaints that
9 you illegally assaulted inmates or had inmates assault other inmates for you.

10 **Defendant's Response:** Defendant objects to this request as overbroad and not likely to lead to
11 the discovery of relevant evidence. Whether CDCR's Office of Internal Affairs (OIA) has investigated
12 Defendant for allegedly wrongfully assaulting inmates or having inmates assaulted is not related to the
13 allegations in Bryant's Amended Complaint is not relevant evidence that Defendant allegedly engaged in
14 retaliatory conduct against Bryant. Without waiving this objection, Defendant can neither admit or deny
15 whether he has been investigated by OIA staff regarding allegations or complaints that he illegally
16 assaulted inmates or had inmates to assault other inmates. Investigations by OIA are confidential and not
17 disclosed unless referred for an adverse action.

18 **Plaintiff's Argument:** Plaintiff incorporates His contentions re Request No. 1 set forth above
19 and His Summary Statement and General Argument set forth below as though fully set forth right here,
20 and based thereon, Castellanos' response must be corrected and substantively supplemented immediately
21 using the same "Department's records" He mentioned in His prior responses to Interrogatory No. 4-8
22 above.

23 **Ruling:** Denied. Plaintiff has not alleged that Castellanos assaulted him. Whether Castellanos
24 has been investigated for wrongfully assaulting other inmates or having other inmates assaulted is not
25 relevant to whether Castellanos retaliated against Bryant. In addition, Defendant has sufficiently
26 responded that he can neither admit nor deny because investigations by OIA are confidential and not
27 disclosed to staff unless referred for adverse action.

28 **RFA 5:** Admit that between January 1, 2008 and the date of your response that you have

1 received disciplinary action against you for your involvement in staff misconduct.

2 **Defendant's Response:** Defendant objects to this request as overbroad and not likely to lead to
3 the discovery of relevant evidence. Whether the hiring authority investigated and subsequently
4 disciplined Defendant for allegedly failing to competently fulfill his duties as a correctional officer for
5 conduct not related to the allegations in Bryant's Amended Complaint is not relevant evidence that
6 Defendant allegedly engaged in retaliatory conduct against Bryant.

7 **Plaintiff's Argument:** Plaintiff incorporates His contentions re Request No. 1 set forth above
8 and His Summary Statement and General Argument set forth below as though fully set forth right here,
9 and based thereon, Castellanos' response must be corrected and substantively supplemented immediately
10 using the same "Department's records" He mentioned in His prior responses to Interrogatory No. 4-8
11 above. The Defendant has provided a privilege log and declarations of a prison official that are deficient
12 and provide insufficient information and their objection is thereby waived. It was Defendants burden to
13 either produce the requested information or move for a protective order. Refusal to produce discovery
14 based on a blanket assertion of privilege and with deficient documents is clearly not an appropriate
15 response to the discovery request.

16 **Ruling:** Denied. Whether Castellanos has been investigated for staff misconduct not related to
17 the allegations in Plaintiff's complaint is not relevant to the issue of whether Castellanos retaliated
18 against Bryant.

19 **RFA 6:** Admit that between January 1, 2008 and the date of your response that you have
20 received disciplinary action against you for your involvement in covering up staff misconduct.

21 **Defendant's Response:** Defendant objects to this request as overbroad and not likely to lead to
22 the discovery of relevant evidence. Whether the hiring authority investigated and subsequently
23 disciplined Defendant for allegedly failing to competently fulfill his duties as a correctional officer for
24 conduct not related to the allegations in Bryant's Amended Complaint is not relevant evidence that
25 Defendant allegedly engaged in retaliatory conduct against Bryant. Without waiving this objection, deny.

26 **Plaintiff's Argument:** Plaintiff incorporates His contentions re Request No. 1 set forth above
27 and his Summary Statement and General Argument set forth below as though set forth right here, and
28 based thereon, Castellanos' response must be corrected and substantively supplemented immediately

1 using the same “Department’s records” He mentioned in His prior responses to Interrogatory No. 4-8
2 above.

3 **Ruling:** Denied. Defendant has provided a response to the request.

4 **RFA 8:** Admit that other KVSP inmates have filed 602 Appeals and staff misconduct complaints
5 against you alleging that you have inmate Moore CDCR No. H-23858 to and/or other inmate(s) assault
6 them between January 1, 2008 and the present date of your response.

7 **Defendant’s Response:** Defendant objects to this request as vague as to the term “staff
8 misconduct complaints.” Assuming that the term refers to a staff complaint defined by title 15 of the
9 California Code of Regulations, section 3084.9, subdivision (1)(i), Defendant also objects to this request
10 as overbroad and not likely to lead to the discovery of relevant evidence. Whether other inmates have
11 filed either an inmate appeal or a staff complaint alleging that Defendant wrongly conspired to have
12 inmate Moore assault an inmate is not relevant evidence that Defendant allegedly engaged in retaliatory
13 conduct against Bryant. Without waiving those objections, Defendant can neither admit or deny whether
14 other inmates have named him in an inmate appeal or staff complaint because he lacks the personal
15 knowledge of the contents of all the Department’s records containing such information.

16 **Plaintiff’s Argument:** Plaintiff incorporates His contentions re Request No. 1 set forth above
17 and His Summary Statement and General Argument set forth below as though set forth right here, and
18 based thereon, Castellanos’ response must be corrected and substantively supplemented immediately
19 using the same “Department’s records” he mentioned in His prior responses to Interrogatory No. 4-8
20 above.

21 **Ruling:** Denied. Whether other inmates believed Castellanos conspired to have them assaulted is
22 not relevant to the issue whether Castellanos retaliated against Plaintiff. In addition, Defendant states he
23 has no personal knowledge of any such appeals. The request is overly burdensome as it would require
24 Defendant to search all inmate appeals filed to determine if Plaintiff’s statement is accurate.

25 **RFA 9:** Admit that many of the inmate assaults referred to in Request No. 8 above were
26 allegedly done by inmate porters who worked in the same housing unit you worked in.

27 **Defendant’s Response:** Defendant objects to this request as vague as to the term “staff
28 misconduct complaints” as referred to in Request No. 8. Assuming that the term refers to a staff

1 complaint defined by title 15 of the California Code of Regulations, section 3084.9, subdivision (1)(i),
2 Defendant also objects to this request as overbroad and not likely to lead to the discovery of relevant
3 evidence. Whether other inmates have filed either an inmate appeal or a staff complaint alleging that
4 Defendant wrongly conspired to have an inmate porter assault another inmate is not relevant evidence
5 that Defendant allegedly engaged in retaliatory conduct against Bryant. Without waiving those
6 objections, Defendant can neither admit or deny whether other inmates have named him in an inmate
7 appeal or staff complaint because he lacks the personal knowledge of the contents of all the
8 Department's records containing such information.

9 **Plaintiff's Argument:** Plaintiff incorporates His contentions re Request No. 1 set forth above
10 and His Summary Statement and General Argument set forth above as though set forth right here, and
11 based thereon, Castellanos' response must be corrected and substantively supplemented immediately
12 using the same "Department's records" he mentioned in His prior responses to Interrogatory No. 4-8
13 above.

14 **Ruling:** Denied for the same reasons stated in RFA 8.

15 **RFA 10:** Admit that most mutual combats that occurred between January 1, 2008 to the present
16 date of your response involving inmate Moore CDCR No. H-23858 to or the other inmate porters
17 working in your housing unit, you stated or wrote a report stating they were not the aggressor and were
18 acting in self defense in the fights you witnessed.

19 **Defendant's Response:** Defendant objects to this request as vague as to the term "report."
20 Assuming that the term refers to a rules violation report defined by title 15 of the California Code of
21 Regulations, section 3315, Defendant also objects to this request as overbroad and not likely to lead to
22 the discovery of admissible evidence. Defendant's statements in a rules violation report regarding other
23 inmate assaults is not relevant evidence that Defendant allegedly engaged in retaliatory conduct against
24 Bryant. Without waiving those objections, due to the passage of time, Defendant can neither admit or
25 deny whether he observed an assault involving inmate Moore, or any other inmate porters; concluded
26 that inmate Moore, or any other inmate porter, were acting in self-defense; and included that observation
27 in a rules violation report.

28 **Plaintiff's Argument:** Plaintiff incorporates His contentions re Request No. 1 set forth above

1 and His Summary Statement and General Argument set forth above below as though set forth right here,
2 and based thereon, Castellanos' response must be corrected and substantively supplemented immediately
3 using the same "Department's records" he mentioned in His prior responses to Interrogatory No. 4-8
4 above.

5 **Ruling:** Denied. Defendant's statements in Rules Violation Reports involving other inmates and
6 not Plaintiff are irrelevant to the issue of whether Castellanos retaliated against Plaintiff.

7 **III. Motion to Modify Scheduling Order**

8 On January 14, 2016, Plaintiff filed a motion to modify the scheduling order to extend the
9 discovery deadline.

10 Modification of the pretrial scheduling order requires a showing of good cause. Fed. R. Civ.
11 P. 16(b)(4). "The schedule may be modified 'if it cannot reasonably be met despite the diligence of
12 the party seeking the extension.'" Zivkovic v. Southern California Edison Co., 302 F.3d 1080, 1087
13 (9th Cir. 2002) (quoting Johnson v. Mammoth Recreations, Inc., 975 F.2d 604, 607 (9th Cir. 1992)).
14 "If the party seeking the modification 'was not diligent, the inquiry should end' and the motion to
15 modify should not be granted." Id.

16 Plaintiff requests that the discovery deadline be extended until after the Court rules on his
17 motions to compel. Plaintiff states he seeks an extension of the discovery cutoff so that he may
18 conduct depositions of witnesses and staff depending on the evidence obtained with his motions to
19 compel. However, Plaintiff is proceeding in forma pauperis, and his motion does not suggest an
20 understanding of the requirements for conducting a deposition or the ability and willingness to pay
21 an officer to take the responses for the record. An officer must be retained to take responses and
22 prepare the record. Fed. R. Civ. P. 30(b). There is no entitlement to take a deposition and to do so, a
23 party must comply with the Federal Rules of Civil Procedure. Plaintiff has not shown that he is able
24 and willing to compensate an officer to take responses and prepare the record, or submitted an offer
25 of proof regarding the financial ability to compensate an officer.

26 Plaintiff also requests that the deadline be extended so that he may serve three additional
27 requests for admission on Defendant Waddle. Those three requests concern a news article from the
28 Bakersfield Californian concerning a fight between an inmate and a guard. (ECF No. 74, Ex. 1.) At

1 the conclusion of the internal affairs investigation, two unidentified prison employees were fired in
2 connection with the fight and an attempted cover-up, another staff member received a two-year
3 suspension without pay, and a lieutenant and guard received salary reductions. Plaintiff believes
4 Defendant Waddle was the lieutenant in that case. The Court does not find good cause for an
5 extension so that Plaintiff may serve the additional requests for admission. The inmate involved in
6 that case was not Plaintiff, and whether Defendant Waddle was involved in that case or not is
7 irrelevant to whether she retaliated against Plaintiff in this case.

8 Accordingly, Plaintiff's motion to modify the scheduling order to extend the discovery
9 deadline is DENIED.

10 **ORDER**

11 For the reasons set forth above, it is HEREBY ORDERED that:

- 12 1. The Court authorizes the issuance of a subpoena duces tecum directing Christian
13 Pfeiffer, Warden of K.V.S.P., to produce those documents which are listed in Attachment 1 to this
14 Order;
- 15 2. Pursuant to Rule 45(a)(4), the parties are placed on notice that the subpoena duces
16 tecum will be issued after the passage of **ten (10) days** from the date of service of this order;
- 17 3. The Clerk's Office shall serve a copy of the subpoena with this order;
- 18 4. Plaintiff's motion for subpoenas duces tecum is DENIED in all other respects;
- 19 5. Plaintiff's motion for a court ruling on his motion for subpoena duces tecum is
20 DISREGARDED as moot; and
- 21 6. Plaintiff's motion to modify the scheduling order is DENIED.
- 22 IT IS SO ORDERED.

23 Dated: March 29, 2016

24 /s/ Dennis L. Beck
UNITED STATES MAGISTRATE JUDGE

**Issued by the
UNITED STATES DISTRICT COURT**

EASTERN

DISTRICT OF

CALIFORNIA

KEVIN D. BRYANT
V.

SUBPOENA IN A CIVIL CASE

R. ROMERO, et al.

Case Number: 1:12-cv-02074-DAD-DLB-PC

TO: Christian Pfeiffer, Warden of Kern Valley State Prison

- YOU ARE COMMANDED to appear in the United States District court at the place, date, and time specified below testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME

- YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION	DATE AND TIME
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- YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects): SEE ATTACHMENT 1 .

PLACE	DATE AND TIME
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- YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME
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Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)	DATE
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ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER

(See Rule 45, Federal Rules of Civil Procedure, Parts C & D on next page)

¹ If action is pending in district other than district of issuance, state district under case number.

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Attachment 1

You are commanded to produce and permit inspection and copying of the following documents, including but not limited to documents which are retained in paper, electronically stored, preserved in microfiche, etc.

No. 1: Produce any and all records, reports, and recorded interviews of internal investigations conducted by the CDCR, including but not limited to OIA and ISU investigations, concerning Plaintiff's allegations of staff misconduct of Defendants Constance Waddle and E. Castellanos, to the extent they exist and have not already been provided to Plaintiff in discovery.