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8	UNITED STATES DISTRICT COURT		
9	EASTERN DIS	DISTRICT OF CALIFORNIA	
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11	NORMAN GERALD DANIELS III,	) Case No.: 1:13-cv-00202-AWI-SAB (PC)	
12	Plaintiff,	ORDER DENYING PLAINTIFF'S MOTION LODGING A COMPLAINT AGAINST DEFENDANT  [ECF No. 93]	
13	V.		
14	STU SHERMAN,		
15	Defendant.		
16			
17	Plaintiff Norman Gerald Daniels III is appearing pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983.  Currently before the Court is Plaintiff's motion "lodging complaint against Defendant for not filing answer to Plaintiff's interrogatory," filed January 20, 2017. Defendant filed an opposition on		
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21	February 9, 2017, and Plaintiff did not file a reply. Therefore, the motion is deemed submitted for		
22	review without oral argument. Local Rule 230(1).		
23	I.		
24	DISCUSSION		
25	Pursuant to the Court's discovery and scheduling order all written discovery requests were to be served at least forty-five days prior to the discovery deadline of July 29, 2016. (Order ¶¶ 2, 7, ECI		
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28	<sup>1</sup> The Court finds that Plaintiff's motion should be construed as a motion to compel a discovery response from Defendant Sherman.		

No. 47.) Accordingly, all written discovery requests had to be served by June 10, 2016, to comply with the July 29, 2016, deadline. (<u>Id.</u>)

In September 2016, almost three months after the discovery deadline, Plaintiff served interrogatories on Defendant Sherman. This is Plaintiff's third untimely motion to compel discovery responses which were served months after the discovery deadline. (See ECF Nos. 72 & 79.) Because the discovery deadline had expired, Defendant Sherman was under no obligation to file a response to Plaintiff's untimely discovery request. See, e.g., Bertram v. Sizelove, No. 1:10-cv-00583-AWI-GBC (PC), 2012 WL 2090060, at \*2 (E.D. Cal. June 8, 2012) (court will not grant a motion to compel untimely discovery). In addition, all motions to compel discovery had to be filed on or before the July 29, 2016, deadline. (Disc. & Sch. Order ¶ 7.)

In this instance, neither the discovery request nor the motion to compel were timely filed and served, and Plaintiff's third motion to compel further responses to his discovery request must be denied.

II.

## **ORDER**

Based on the foregoing, it is HEREBY ORDERED that Plaintiff's motion lodging a complaint against Defendant construed as a motion to compel is DENIED.

IT IS SO ORDERED.

Dated: **February 27, 2017** 

UNITED STATES MAGISTRATE JUDGE