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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

ALVARO QUEZADA,

Plaintiff,

v.

MATTHEW CATE, et al.

Defendants.

CASE NO. 1:13-cv-00960-AWI-MJS (PC)

**ORDER REGARDING MISCELLANEOUS  
FILING**

**(ECF NO. 79)**

Plaintiff is a state prisoner proceeding pro se and in forma pauperis in this civil rights action brought pursuant to 42 U.S.C. § 1983. On May 16, 2017, after screening Plaintiff's second amended complaint, the Court authorized Plaintiff to proceed with First and Fourteenth Amendment claims against Defendants Smith and Carron. (ECF No. 75.) Defendant Smith filed an answer to Plaintiff's complaint on June 6, 2017. (ECF No. 77.) Service on Defendant Carron has yet to be resolved.

On June 19, 2017, Plaintiff submitted a filing titled "Plaintiff Reserves All Rights to File Objections to the Def.s' [sic] Answer ECF No. 77." (ECF No. 79.) The filing states that it constitutes a "Notice Of Intent" to record plaintiff's objections to ECF No. 77," and describes Plaintiff's difficulties in obtaining his "legal property." (Id.) Plaintiff states that he intends to file objections to Defendant Smith's answer once he has "full access" to his legal property. Plaintiff also attaches a number of exhibits, including copies of notices

1 issued by Plaintiff, a copy of Plaintiff's 602 appeal, copies of requests for interviews, and  
2 other documents related to the prison grievance process and his attempts to obtain his  
3 legal property. (Id.)

4 The Court is unable to determine the nature or purpose of such a filing. Neither the  
5 Federal Rules of Civil Procedure nor the local rules of this Court provide for objections or  
6 responses to an answer. Moreover, there is no need to file such objections or responses  
7 as the Answer puts in dispute issues to be resolved in the litigation.

8 Therefore, to the extent Plaintiff seeks an extension of time to respond to  
9 Defendant Smith's answer (ECF No. 77), his request is denied.

10 Federal Rule 12(f) does provide for a party to file a motion to strike parts or all of  
11 an answer. If Plaintiff intends to file such a motion to strike, he may so state and file a  
12 motion for extension of time to do so. Plaintiff is advised that such motions "are generally  
13 viewed with disfavor and not ordinarily granted because they are often used to delay [the  
14 litigation] . . . ." Brewer v. Indymac Bank, 609 F. Supp. 2d 1104, 1113 (E.D. Cal. 2009)  
15 (citation omitted) ("A motion to strike should not be granted unless it is absolutely clear  
16 that the matter to be stricken could have no possible bearing on the litigation.").

17 To the extent Plaintiff intends this document to serve as a supplement to his  
18 second amended complaint (ECF No. 74), he is advised that a complaint must be  
19 complete in itself without reference to any prior pleading. See E.D. Cal. R. 220; Comm. to  
20 Protect our Agric. Water v. Occidental Oil and Gas Corp., No. 1:15-cv-01323-DAD-JLT,  
21 2017 WL 272215, at \*32 (E.D. Cal. Jan. 20, 2017). Such miscellaneous filings will not be  
22 considered as supplementary to Plaintiff's complaint or for any other purpose.

23 Finally, Plaintiff may not simply file documents or evidence he feels may be  
24 important to his case at some point. The Court will not serve as a repository for the  
25 parties' evidence. "Parties may not file evidence with the Court until the course of  
26 litigation brings the evidence into question (for example, on a motion for summary  
27 judgment, at trial, or when requested by the Court)." Maric v. Fresno County, No. 1:12-cv-  
28 00102 LJO GSA, 2012 WL 1301222, at \*2-3 (E.D. Cal. Apr. 13, 2012). This litigation has

1 not proceeded to a point requiring presentation of evidence to the Court. Plaintiff is not to  
2 present evidence to the Court until required to do so.

3 Plaintiff presently has no pending deadlines with the Court. The Court will issue a  
4 discovery and scheduling order once service on Defendant Carron has been resolved,  
5 and the litigation will then proceed. No further action will be taken with respect to  
6 Plaintiff's "Notice of Intent."

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8 IT IS SO ORDERED.

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Dated: July 2, 2017

/s/ Michael J. Seng  
UNITED STATES MAGISTRATE JUDGE

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