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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

HENRY E. HARRIS,
Plaintiff,
v.
JUAN CALZETTA, et al.,
Defendants.

Case No. 1:13-cv-01088-MJS (PC)
**ORDER DENYING PLAINTIFF'S
MOTION TO COMPEL DISCOVERY**
(ECF No. 16)

Plaintiff Henry E. Harris is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. Pending before the Court is Plaintiff's motion to compel discovery of unspecified medical and other records.

The basis for Plaintiff's motion is unclear. If it is intended to be a discovery motion, it is premature. This matter is in the screening phase. The Court has not yet determined whether the complaint states a cognizable claim that may be pursued. Discovery is not yet open. (ECF No. 3 at 4:16-18.) "No discovery may be initiated until the Court issues a discovery order or otherwise orders that discovery begin." (*Id.*) If this matter proceeds to the discovery phase, Plaintiff will have opportunity to seek production of documents, including medical records, from Defendants and to seek relief from the Court if Defendants wrongfully deny discovery.

If Plaintiff is asking the Court to order production of records as injunctive relief, he has not shown the existence of any of the criteria for granting such relief, i.e., (1) a

1 likelihood of success on the merits and the possibility of irreparable injury, or (2) the
2 existence of serious questions going to the merits and the balance of hardships tipping
3 in Plaintiff's favor. Oakland Tribune, Inc. v. Chronicle Publishing Company, Inc., 762
4 F.2d 1374, 1376 (9th Cir. 1985), quoting Apple Computer, Inc. v. Formula International,
5 Inc., 725 F.2d 521, 523 (9th Cir. 1984); see City of Los Angeles v. Lyons, 461 U.S. 95,
6 101–102 (1983) (plaintiff must show “real and immediate” threat of injury).

7 Accordingly, for the reasons stated, Plaintiff's motion to compel discovery of
8 unspecified medical and other records (ECF No. 16) is DENIED without prejudice.

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10 IT IS SO ORDERED.

11 Dated: January 10, 2014

12 /s/ Michael J. Seng
13 UNITED STATES MAGISTRATE JUDGE
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