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

IRVIN VAN BUREN,)	Case No.: 1:13-cv-01273-LJO-DLB (PC)
)	
Plaintiff,)	ORDER DENYING PLAINTIFF’S MOTION
v.)	TO COMPEL WITHOUT PREJUDICE
)	
EMERSON,)	(Document 52)
)	
Defendant.)	
)	
)	

Plaintiff Irvin Ban Buren (“Plaintiff”) is a prisoner in the custody of the California Department of Corrections and Rehabilitation (“CDCR”). Plaintiff is proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983.

Defendant’s December 3, 2014, motion for summary judgment based on exhaustion is pending.

On February 2, 2015, Plaintiff filed a motion to compel Defendant Emerson to respond to discovery. The discovery at issue, however, was served on December 29, 2014. Pursuant to the Discovery and Scheduling order, Defendant has thirty days after service of the discovery to serve responses. Plaintiff’s motion was signed on January 28, 2015, which is the exact date that Defendant’s responses were due.

The Court will not entertain a motion to compel filed on the day on which documents are due. This is especially true given the normal delays in receiving institutional mail.

Accordingly, Plaintiff's motion is DENIED, without prejudice, as premature.

IT IS SO ORDERED.

Dated: **February 11, 2015**

/s/ Dennis L. Beck
UNITED STATES MAGISTRATE JUDGE