

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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

DAVID C. PATKINS,  
Plaintiff,  
v.  
ALOMARI, et al.,  
Defendants.

**Case No. 1:14-cv-00674-LJO-JLT (PC)**  
**ORDER DISCHARGING ORDER TO SHOW CAUSE AND ORDERING DEFENDANTS TO RE-SERVE THEIR MOTION FOR SUMMARY JUDGMENT ON PLAINTIFF**  
**(Doc. 39)**

Plaintiff is proceeding on the First Amended Complaint against Defendants I. Vargas and T. Davies for retaliation in violation of the First Amendment. The defendants filed a motion for motion for summary judgment and asset that the plaintiff failed to exhaust administrative remedies prior to filing suit is pending. (Docs. 34.) The Court granted the plaintiff’s request to open discovery on the issue of exhaustion on April 13, 2016. (Doc. 38.) The order that granted Plaintiff’s request set forth specific parameters as to what discovery was allowed, set a deadline for the completion of the discovery, and ordered the plaintiff to file an opposition or a statement of non-opposition to the motion by July 12, 2016. (*Id.*)

Two months after that deadline, the Court ordered the plaintiff to show cause why the action should not be dismissed for his failure to prosecute the action and to obey the Court’s order. (Doc. 39.) Plaintiff responded to the OSC by stating that he had not received a copy of Defendants’ renewed motion for summary judgment. (Doc. 40.)

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Accordingly, the Court **ORDERS**:

1. The order to show cause (Doc. 39) is **DISCHARGED**;
2. **No later than September 30, 2016**, Defendants shall re-serve their motion for summary judgment and all accompanying documents on Plaintiff;
3. **No later than October 31, 2016**, Plaintiff shall file an opposition to the motion or a statement of non-opposition to Defendants' renewed motion for summary judgment.

**Plaintiff's failure to comply with this order will result in a recommendation that this action be dismissed for Plaintiff's failure to prosecute and to obey the court's order.**

IT IS SO ORDERED.

Dated: September 28, 2016

/s/ Jennifer L. Thurston  
UNITED STATES MAGISTRATE JUDGE