



1 Federal Rule of Civil Procedure 33, under which this discovery request is purportedly filed,  
2 allows interrogatories to be served on other parties. Federal Rule of Civil Procedure 31 allows  
3 depositions to be taken by written questions. However, Plaintiff must first ask for leave of the  
4 Court before he can serve a deposition by written questions. Fed. R. Civ. P. 31(a)(2)(B). If  
5 Plaintiff is granted leave to take a deposition by written questions, he needs to serve a copy of the  
6 questions on defendant E. Smith (Fed. R. Civ. P. 31(a)(3)), as well as the officer who is to take  
7 the deposition (Fed. R. Civ. P. 31(b)). Note also that Rule 30(c)(3), regarding Depositions by  
8 Oral Examination has a provision regarding "Participating Through Written Questions," which  
9 states that "Instead of participating in the oral examination, a party may serve written questions in  
10 a sealed envelope on the party noticing the deposition, who must deliver them to the officer. The  
11 officer must ask the deponent those questions and record the answers verbatim."

12 If Plaintiff wishes to proceed with a deposition upon written questions, he may make an  
13 oral motion at the initial scheduling conference, which is currently set for August 14, 2017, at  
14 2:00 p.m. The Court and parties will discuss discovery at that time and can address Plaintiff's  
15 discovery plan.

16 Accordingly, based on the foregoing, the Clerk of Court is DIRECTED to return  
17 Plaintiff's first set of deposition upon written questions and the attached letter to Plaintiff.

18 IT IS SO ORDERED.

19  
20 Dated: May 26, 2017

21 /s/ Eric P. Gray  
22 UNITED STATES MAGISTRATE JUDGE  
23  
24  
25  
26  
27  
28