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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

JEREMIAH D. VICKERS,)	Case No.: 1:15-cv-00129-SAB (PC)
)	
Plaintiff,)	ORDER DENYING PLAINTIFF’S MOTION
)	FOR AN EXTENSION OF TIME TO FILE
v.)	MOTION TO COMPEL DISCOVERY AS
)	UNNECESSARY
THOMPSON, et al.,)	(ECF No. 61)
)	
Defendants.)	ORDER REQUIRING DEFENDANTS TO
)	RESPOND TO PLAINTIFF’S MOTION TO
)	COMPEL WITHIN THIRTY DAYS
)	(ECF No. 60)
)	
)	

Plaintiff Jeremiah D. Vickers (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. The parties have consented to the jurisdiction of the United States Magistrate Judge. (ECF Nos. 8, 40, 65); Local Rule 302.

Currently before the Court is Plaintiff’s motion to compel discovery, and motion for an extension of time to file the motion to compel discovery, both filed on January 9, 2017. (ECF Nos. 60, 61.)

Plaintiff’s motion to compel contains a proof of service stating it was provided to prison officials for mailing on January 3, 2017. (ECF No. 60, p. 116.) Plaintiff filed a motion for an extension of time to file this motion, noting that he had previously been granted a thirty-day extension of time to file the motion to compel on November 29, 2016. Thus, he understood the

1 deadline to be January 2, 2017, but he seeks for the motion to be considered as timely for being
2 filed on January 3, 2017. (ECF No. 61.)

3 Defendants oppose the motion for an extension of time, arguing that there are no grounds
4 to allow the deadline to be extended until January 3, 2017, and that the motion should therefore
5 be rejected as untimely and to prevent the needless expenditure of resources. Defendants further
6 request that if they are required to respond to the substance of Plaintiff's motion to compel, they
7 be granted adequate time to do so.

8 Plaintiff's motion for an extension of time to file his motion to compel is denied, as
9 unnecessary. Federal Rule of Civil Procedure 6(a) governs the computation of the relevant time
10 period involved. Under Rule 6 (a) (1) (A) and (B), the first day is excluded from the computation
11 and every day thereafter is included, including Saturdays, Sundays and legal holidays. Rule 6(d)
12 states: "When a party may or must act within a specified period of time after service and service
13 is made under rule 5(b)(2)(C) (mail) . . . 3 days are added after the period would otherwise
14 expire under Rule 6(a)."

15 Calculating thirty days from the date of service of the subject order under the rules
16 outlined above, the deadline for Plaintiff's motion to compel fell on January 2, 2017, which was
17 the legal public holiday for New Year's Day this year. Therefore, because "the last day is a
18 Saturday, Sunday or legal holiday, the period continues to run until the end of the next day that is
19 not a Saturday, Sunday, or legal holiday." Fed. R. Civ. P. 6(a)(1)(C).

20 Thus, Plaintiff's motion was due on January 3, 2017, and applying the prison mailbox
21 rule, as the Court is required to do here, his motion was timely filed, and his motion for an
22 extension of time is unnecessary.

23 Accordingly, it is HEREBY ORDERED that:

24 1. Plaintiff's motion for an extension of time to file a motion to compel discovery,
25 filed on January 9, 2017 (ECF No. 61), is DENIED, as unnecessary; and

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28 ///

1 2. Defendants SHALL file a response to Plaintiff's motion to compel, filed on
2 January 9, 2017 (ECF No. 60), within **thirty days** of the date of service of this order.

3
4 IT IS SO ORDERED.

5 Dated: July 17, 2017


UNITED STATES MAGISTRATE JUDGE