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

MAURICE MUHAMMAD,
 Plaintiff,

 v.

KOMIN, MITCHELL,
 Defendants.

Case No. 1:15-cv-01373-DAD-EPG (PC)
**DISCOVERY ORDERS FOLLOWING
INITIAL SCHEDULING CONFERENCE**

Maurice Muhammad (“Plaintiff”) is a state prisoner proceeding *pro se* and *in forma pauperis* with this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff is proceeding on two claims in the First Amended Complaint against Defendants Komin and Mitchell in their individual capacities for violation of the First Amendment free exercise clause, as well as against Defendants Komin and Mitchell in their official capacities for violation of RLUIPA. (ECF No. 16.) On February 7, 2018, the Court held an Initial Scheduling Conference (“Conference”). Plaintiff telephonically appeared on his own behalf. Counsel Leslie M. Dillahunty telephonically appeared on behalf of Defendants. This order summarizes and restates certain orders made on the record at that conference.

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1 **A. Plaintiff's Failure to Provide Initial Disclosures and Order to Do So**

2 On June 28, 2017, the Court entered an order requiring initial disclosures and setting
3 mandatory scheduling conference for October 2, 2017. (ECF No. 21.) The parties were ordered
4 to exchange initial disclosures within 30 days of the order and be prepared to discuss a range of
5 issues at the mandatory scheduling conference. (*Id.*) The parties were ordered to file a
6 scheduling conference statement confirming the date that initial disclosures were served and
7 any deficiencies in either party's disclosures. (*Id.*)

8 Plaintiff did not comply with the Court's June 28, 2017 Order. He did not make initial
9 disclosures. He did not file a scheduling conference statement. He did not appear at the
10 October 2, 2017 mandatory scheduling conference. Last, mail sent to Plaintiff on June 28,
11 2017 was returned as undeliverable, so he also did not keep the Court informed of his current
12 address.

13 On October 3, 2017, the Court ordered Plaintiff to Show Cause why this case should not
14 be dismissed for failure to prosecute and failure to comply with Court orders. (ECF No. 25.)
15 Plaintiff responded to the Order to Show Cause on November 6, 2017. (ECF No. 26.) He
16 indicated that he had been released from prison and was suffering from mental illness and
17 homelessness and asked for more time to comply with the Court's orders.

18 On November 28, 2017, the Court entered an Order discharging the October 3 Order to
19 Show Cause. (ECF No. 28.) The Court noted that there was already a "substantial record of
20 noncompliance with Court directives" and "any further compliance failures will likely result in
21 dismissal of this case." (*Id.*) The Court further Ordered that another copy of its June 28, 2017
22 Order (ECF No. 21) be sent to Plaintiff. (*Id.*) The Order directed Plaintiff shall make initial
23 disclosures, as described in the June 28 Order, within 30 days, and reset the scheduling
24 conference for February 7, 2018. (*Id.*)

25 Plaintiff appeared by telephone for the February 7, 2018 scheduling conference.
26 However, Plaintiff still had not made initial disclosures as previously directed on two prior
27 occasions. Similarly, Plaintiff still had not filed a scheduling conference statement as required
28 by the June 28, 2017 Order. However, Plaintiff indicated that he intended to prosecute this

1 case and that he would comply with Court orders.

2 At the February 7, 2018 scheduling conference, the Court discussed the initial
3 disclosure requirements of its June 28, 2017 Order with Plaintiff. The Court explained that
4 Plaintiff needed to give Defendants a list of the persons who know about his case and describe
5 documents relevant to the case. The Court answered any questions about initial disclosures.
6 The Court gave Plaintiff another 30 days to give this information to Defendants. This is
7 important information, and also is necessary to show that Plaintiff can comply with Court
8 orders.

9 Again, it is ORDERED that Plaintiff provide Defendants with initial disclosures within
10 30 days of this order. In order to comply, Plaintiff needs to send defense counsel a list of the
11 names of people who know about the incident in the lawsuit and a list of documents or
12 categories of documents that are relevant to the lawsuit.

13 **B. Rule 16 Discovery Orders**

14 Also during the Conference, and with the benefit of the scheduling conference
15 statement provided by Defendants, the Court and the parties discussed relevant documents in
16 this case and their possible locations. In addition to opening discovery generally, the Court
17 ordered that certain documents that are central to the dispute be promptly produced.

18 Therefore, in an effort to secure the just, speedy, and inexpensive disposition of this
19 action,¹ and after consideration of Federal Rule of Civil Procedure 26(b)(1),² IT IS ORDERED³

20
21 ¹ See, e.g., *United States v. W.R. Grace*, 526 F.3d 499, 508–09 (9th Cir. 2008) (“We begin with the
22 principle that the district court is charged with effectuating the speedy and orderly administration of justice. There
23 is universal acceptance in the federal courts that, in carrying out this mandate, a district court has the authority to
24 enter pretrial case management and discovery orders designed to ensure that the relevant issues to be tried are
25 identified, that the parties have an opportunity to engage in appropriate discovery and that the parties are
26 adequately and timely prepared so that the trial can proceed efficiently and intelligibly.”).

27 ² Federal Rule of Civil Procedure 26 provides that “[p]arties may obtain discovery regarding any
28 nonprivileged matter that is relevant to any party's claim or defense and proportional to the needs of the case,
29 considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative
30 access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and
31 whether the burden or expense of the proposed discovery outweighs its likely benefit.” Fed. R. Civ. P. 26(b)(1).
32 “Information within this scope of discovery need not be admissible in evidence to be discoverable.” *Ibid*.

33 ³ Pursuant to Federal Rule of Civil Procedure 16, “[a]t any pretrial conference, the court may consider
34 and take appropriate action on the following matters: . . . controlling and scheduling discovery, including orders
35 affecting disclosures and discovery under Rule 26 and Rules 29 through 37” and “facilitating in other ways the
36 just, speedy, and inexpensive disposition of the action.” Fed. R. Civ. P. 16(c)(2)(F). See also *Little v. City of*

1 that:

- 2 1. Each party has until March 8, 2018, to:
- 3 a. Provide the opposing party with copies of all documents currently in their
- 4 possession related to any administrative grievances dated from 2014 until
- 5 2016 concerning Plaintiff’s request for a Ramadan accommodation at the
- 6 Delano facility; and
- 7 b. Provide the opposing party with copies of all documents in their possession
- 8 related to Plaintiff’s request for a Ramadan accommodation dated from 2014
- 9 until 2016 concerning Plaintiff’s request for a Ramadan accommodation at
- 10 the Delano facility.
- 11 2. Additionally, if the parties obtain additional documents falling within these
- 12 categories, they shall supplement their production promptly following such search.
- 13 Parties do not have to re-produce documents they have already produced;⁴
- 14 3. If either party has an objection to providing these documents to the opposing party,
- 15 that party shall inform the opposing party that he or she is making the objection and
- 16 include a privilege log of any documents withheld on the basis of privilege, and
- 17 otherwise follow the procedures set forth in the Court’s scheduling order;

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22 *Seattle*, 863 F.2d 681, 685 (9th Cir. 1988) (“The district court has wide discretion in controlling discovery.”).
23 Federal Rule of Civil Procedure 16 vests the district court with early control over cases “toward a process of
24 judicial management that embraces the entire pretrial phase, especially motions and discovery.” *In re Arizona*,
25 528 F.3d 652, 655 (9th Cir. 2008) (affirming district court’s requiring that prison officials prepare a *Martinez*
26 report to give detailed factual information involving a prisoner’s suit under 42 U.S.C. § 1983 and stating “district
27 courts have wide latitude in controlling discovery.”). *See also* Advisory Committee Notes to 1993 Amendment to
28 Federal Rules of Civil Procedure regarding Rule 26(a) (“The enumeration in Rule 26(a) of items to be disclosed
does not prevent a court from requiring by order or local rule that the parties disclosed additional information
without a discovery request.”).

⁴ This order does not require either party to perform a search for additional documents in their custody or control, but not within the parties’ possession, at this time. If either party obtains such documents in the future, they shall produce them to the other party. This order does not limit the scope of any discovery requests, which may impose an obligation to perform such a reasonable search for additional documents.

1 4. An objection or privilege assertion can be challenged by filing a motion to compel.

2
3 IT IS SO ORDERED.

4 Dated: February 8, 2018

/s/ Eric P. Gray
5 UNITED STATES MAGISTRATE JUDGE