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

GARY RAY BETTENCOURT,)	Case No.: 1:16-cv-00150-BAM (PC)
)	
Plaintiff,	)	ORDER DISCHARGING ORDER TO SHOW
	)	CAUSE WHY ACTION SHOULD NOT BE
v.	)	DISMISSED FOR FAILURE TO PROSECUTE
	)	(ECF No. 7)
L. PARKS, et al.,)	
	)	ORDER DENYING PLAINTIFF’S MOTION FOR
Defendants.	)	DEPOSITION OF EVIDENCE
	)	(ECF No. 8)
)	
	)	ORDER DIRECTING CLERK’S OFFICE TO
	)	RANDOMLY ASSIGN A DISTRICT JUDGE TO
	)	THIS ACTION
)	
)	
)	

22 Plaintiff Gary Ray Bettencourt (“Plaintiff”) is a state prisoner proceeding pro se and in forma
23 in this civil rights action pursuant to 42 U.S.C. § 1983. On May 3, 2016, the Court issued an order
24 requiring Plaintiff to file a consent or decline form or show cause why this action should not be
25 dismissed for failure to prosecute and failure to obey a court order. (ECF No. 7.)

26 Currently before the Court is Plaintiff’s motion for deposition of evidence. (ECF No. 8.) In the
27 motion, Plaintiff discusses his previous filings in this case, and identifies a typographical error in one
28 of the Defendants’ names. The error will be corrected in a separate order. Plaintiff also expresses some

1 concern that the caption does not contain the full name of every party. The Court confirms for Plaintiff
2 that a short-form caption is appropriately used in some of the Court’s orders, and he should not be
3 concerned at this time.

4 Plaintiff next states that he received the Court’s previous order regarding consent or requesting
5 reassignment, and that he declines to consent to a United States Magistrate Judge. He has also attached
6 the signed and dated form to his filing. (ECF No. 8, p. 11.) Consequently, as Plaintiff has now
7 complied with the Court’s prior order, the order to show cause will be discharged. The Court cautions
8 Plaintiff, however, that he must timely comply with future orders.

9 Plaintiff next discusses the mailings he has received from the Court, and some concerns that he
10 may not have received all the Court’s mail to him. However, judging from his descriptions in this and
11 other prior filings, it appears that he has received all of the Court’s orders and mailings that have been
12 sent as of the date of the current motion.

13 Finally, Plaintiff seeks an order for a deposition and to conduct other discovery to gather
14 evidence for his case. Plaintiff’s request for discovery is premature and shall be denied without
15 prejudice. The Court has not screened Plaintiff’s complaint to determine whether it is subject to
16 dismissal or whether the action should proceed to discovery on Plaintiff’s claims. 28 U.S.C. §
17 1915(e)(2)(B)(ii) (“Notwithstanding any filing fee, or any portion thereof, that may have been paid,
18 the court shall dismiss the case at any time if the court determines that . . . the action or appeal . . . fails
19 to state a claim upon which relief may be granted.”). The complaint has not been ordered served, no
20 defendants have appeared and discovery has not been opened. Plaintiff’s complaint will be screened in
21 due course.

22 Accordingly, it is **HEREBY ORDERED** that:

- 23 1. The Order to Show Cause issued on May 3, 2016, is **DISCHARGED**;
- 24 2. Plaintiff’s motion for discovery is **DENIED**, without prejudice, as premature; and

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3. The Clerk is directed to randomly assign this action to a United States District Judge pursuant to Plaintiff's request and decline to consent to a United States Magistrate Judge.

4. The complaint will be screened in due course.

IT IS SO ORDERED.

Dated: May 23, 2016

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE