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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

SIMON THORNTON,  
  
                                Plaintiff,  
  
          v.  
  
D. GRISSOM, et al.,  
  
                                Defendants.

**CASE No. 1:16-cv-0498-AWI-MJS (PC)**  
  
**ORDER DENYING PLAINTIFF’S MOTION  
TO COMPEL**  
  
**(ECF NO. 59)**

Plaintiff, a state prisoner proceeding pro se, has filed this civil rights action seeking relief under 42 U.S.C. § 1983. This matter proceeds on Plaintiff’s First Amended Complaint alleging an Eighth Amendment excessive force claim against Defendant Correctional Officer (“CO”) Grissom and an Eighth Amendment failure to protect claim against Defendant CO Cruz. Defendants have not yet filed an answer. They did file a motion to dismiss that was denied. (See ECF No. 60.)

Plaintiff’s recently-filed motion to compel reflects he has already served discovery requests on Defendants and now moves to compel responses. As Defendants rightly point out, though, this discovery was improperly served. In the Court’s April 11, 2016, “First Informational Order in Prisoner / Civil Detainee Civil Rights Cases,” Plaintiff was informed that “After defendants’ answers are filed, the Court will issue an order opening discovery and setting deadlines for completing discovery.... No discovery may be initiated until the Court issues a discovery order or otherwise orders that discovery begin.” (ECF No. 2 at 4 ¶ V.A.)

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Since Defendants have not yet filed an answer and since no discovery order has yet issued to open discovery, IT IS HEREBY ORDERED that Plaintiff's motion to compel (ECF No. 59) is DENIED.

IT IS SO ORDERED.

Dated: January 18, 2018

*1st Michael J. Seng*  
UNITED STATES MAGISTRATE JUDGE