



1 8, 2018, the Court issued the discovery and scheduling order. The current deadline for completion of  
2 all discovery, including motions to compel is January 11, 2019.

3 Plaintiff is proceeding pro se and she is a state prisoner challenging his conditions of  
4 confinement. As a result, the parties were relieved of some of the requirements which would  
5 otherwise apply, including initial disclosure and the need to meet and confer in good faith prior to  
6 involving the Court in a discovery dispute. Fed. R. Civ. P. 26(a)(1); Fed. R. Civ. P. 26(c); Fed. R. Civ.  
7 P. 37(a)(1); Local Rule 251; ECF No. 26, Discovery and Scheduling Order, ¶4. Further, where  
8 otherwise discoverable information would pose a threat to the safety and security of the prison or  
9 infringe upon a protected privacy interest, a need may arise for the Court to balance interests in  
10 determining whether disclosure should occur. See Fed. R. Civ. P. 26(c); Seattle Times Co. v.  
11 Rhinehart, 467 U.S. 20, 35 n.21 (1984) (privacy rights or interests implicit in broad purpose and  
12 language of Rule 26(c)); Burlington N. & Santa Fe Ry. Co. v. United States Dist. Court for the Dist. of  
13 Montana, 408 F.3d 1142, 1149 (9th Cir. 2005) (discussing assertion of privilege); Soto v. City of  
14 Concord, 162 F.R.D. 603, 616 (N.D. Cal. 1995) (recognizing a constitutionally-based right of privacy  
15 that can be raised in discovery); see also Garcia v. Clark, No. 1:10-CV-00447-LJO-DLB PC, 2012  
16 WL 1232315, at \*6 n.5 (E.D. Cal. Apr. 12, 2012) (noting inmate's entitlement to inspect discoverable  
17 information may be accommodated in ways which mitigate institutional safety concerns); Robinson v.  
18 Adams, No. 1:08-cv-01380-AWI-BAM PC, 2012 WL 912746, at \*2-3 (E.D. Cal. Mar. 16, 2012)  
19 (issuing protective order regarding documents containing information which implicated the safety and  
20 security of the prison); Orr v. Hernandez, No. CV-08-0472-JLQ, 2012 WL 761355, at \*1-2 (E.D. Cal.  
21 Mar. 7, 2012) (addressing requests for protective order and for redaction of information asserted to  
22 risk jeopardizing safety and security of inmates or the institution if released); Womack v. Virga, No.  
23 CIV S-11-1030 MCE EFB P, 2011 WL 6703958, at \*5-6 (E.D. Cal. Dec. 21, 2011) (requiring  
24 defendants to submit withheld documents for in camera review or move for a protective order).

25 Generally, if the responding party objects to a discovery request, the party moving to compel  
26 bears the burden of demonstrating why the objections are not justified. Grabek v. Dickinson, No. CIV  
27 S-10-2892 GGH P, 2012 WL 113799, at \*1 (E.D. Cal. Jan. 13, 2012); Womack, 2011 WL 6703958, at  
28 \*3; Mitchell v. Felker, No. CV 08-119RAJ, 2010 WL 3835765, at \*2 (E.D. Cal. Sep. 29, 2010); Ellis

1 v. Cambra, No. 1:02-cv-05646-AWI-SMS PC, 2008 WL 860523, at \*4 (E.D. Cal. Mar. 27, 2008).  
2 This requires the moving party to inform the Court which discovery requests are the subject of the  
3 motion to compel, and, for each disputed response, why the information sought is relevant and why  
4 the responding party's objections are not meritorious. Grabek, 2012 WL 113799, at \*1; Womack,  
5 2011 WL 6703958, at \*3; Mitchell, 2010 WL 3835765, at \*2; Ellis, 2008 WL 860523, at \*4.  
6 However, the Court is vested with broad discretion to manage discovery and notwithstanding these  
7 procedures, Plaintiff is entitled to leniency as a pro se litigation; therefore, to the extent possible, the  
8 Court endeavors to resolve his motion to compel on its merits. Hunt v. County of Orange, 672 F.3d  
9 606, 616 (9th Cir. 2012); Survivor Media, Inc. v. Survivor Productions, 406 F.3d 625, 635 (9th Cir.  
10 2005); Hallett v. Morgan, 296 F.3d 732, 751 (9th Cir. 2002).

11 Plaintiff's motion to compel must be denied, without prejudice. Plaintiff has filed a three-page  
12 motion to compel discovery further responses to his discovery requests he claims to have received on  
13 December 17, 2018. Plaintiff seeks to compel a response to the discovery and to extend the discovery  
14 deadline. However, Plaintiff's motion to compel is procedurally defective in that she failed to attach  
15 the relevant discovery requests for which he compels a response, and fails to demonstrate how such  
16 responses are inadequate. Plaintiff bears the burden of identifying which responses are in dispute and  
17 providing sufficient information so that Court can discern why she is challenging the responses. Once  
18 the Court has before it the requests and responses which are in dispute, it can reach the merits of  
19 Plaintiff's motion to compel and provide the parties with a final resolution regarding Plaintiff's  
20 discovery requests. In addition, the Court will grant Plaintiff's request to extend the discovery  
21 deadline because such request is unopposed, and the discovery deadline will be extended an additional  
22 thirty days, and further extend the correlating dispositive motion deadline.

23 Plaintiff's second request for appointment of counsel must be denied, without prejudice. As  
24 Plaintiff was previously advised, she does not have a constitutional right to appointed counsel in this  
25 action, Rand v. Rowland, 113 F.3d 1520, 1525 (9th Cir. 1997), and the Court cannot require any  
26 attorney to represent her pursuant to 28 U.S.C. § 1915(e)(1), Mallard v. United States District Court  
27 for the Southern District of Iowa, 490 U.S. 296, 298 (1989). However, in certain exceptional  
28 circumstances the Court may request the voluntary assistance of counsel pursuant to section

1 1915(e)(1). Rand, 113 F.3d at 1525. Without a reasonable method of securing and compensating  
2 counsel, the Court will seek volunteer counsel only in the most serious and exceptional cases. In  
3 determining whether “exceptional circumstances exist, the district court must evaluate both the  
4 likelihood of success on the merits [and] the ability of the [plaintiff] to articulate [her] claims pro se in  
5 light of the complexity of the legal issues involved.” Id. (internal quotation marks and citations  
6 omitted). The test for exceptional circumstances requires the court to evaluate a plaintiff’s likelihood  
7 of success on the merits and the ability of the plaintiff to articulate his or her claims pro se in light of  
8 the complexity of the legal issues involved. See Wilborn v. Escalderon, 789 F.2d 1328, 1331 (9th Cir.  
9 1986); Weygandt v. Look, 718 F.2d 952, 954 (9th Cir. 1983). Circumstances common to most  
10 prisoners, such as lack of legal education and limited law library access, do not establish exceptional  
11 circumstances that would warrant a request for voluntary assistance of counsel.

12 In this case, the Court does not find the exceptional circumstances necessary to request  
13 volunteer counsel at this time. The Court does not find the legal issues here to be particularly  
14 complex. The record reflects that Plaintiff has adequately articulated her claim and litigated this action  
15 to date. While a pro se litigant may be better served with the assistance of counsel, so long as a pro se  
16 litigant, such as Plaintiff in this instance, is able to “articulate [her] claims against the relative  
17 complexity of the matter,” the “exceptional circumstances” which might require the appointment of  
18 counsel do not exist. Rand v. Rowland, 113 F.3d at 1525 (finding no abuse of discretion under 28  
19 U.S.C. § 1915(e) when district court denied appointment of counsel despite fact that pro se prisoner  
20 “may well have fared better-particularly in the realm of discovery and the securing of expert  
21 testimony.”) Accordingly, Plaintiff’s second motion for appointment of counsel is denied, without  
22 prejudice.

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**II.**  
**ORDER**

Based on the foregoing, it is HEREBY ORDERED that:

1. Plaintiff's motion to compel is denied, without prejudice;
2. Plaintiff's request to extend the discovery deadline is granted;
3. The discovery deadline is extended to **February 25, 2019**, and the deadline to file a dispositive motion is extended to **March 25, 2019**; and
4. Plaintiff's second motion for appointment of counsel, is denied without prejudice.

IT IS SO ORDERED.

Dated: **January 23, 2019**

  

---

UNITED STATES MAGISTRATE JUDGE