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

MARCO A. GARCIA,  
Plaintiff,  
v.  
GARCIA, *et al.*,  
Defendants.

Case No. 1:17-cv-01313-BAM (PC)  
**ORDER GRANTING PLAINTIFF'S  
REQUEST FOR EXTENSION OF TIME TO  
RESPOND TO DEFENDANTS' DISCOVERY  
REQUESTS  
(ECF No. 39)**  
**FORTY-FIVE (45) DAY DEADLINE**  
**ORDER DIRECTING DEFENDANTS TO RE-  
SERVE COURTESY COPIES OF APRIL 9,  
2019 DISCOVERY REQUESTS ON  
PLAINTIFF**  
**SEVEN (7) DAY DEADLINE**

Plaintiff Marco A. Garcia ("Plaintiff") is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. This action proceeds on Plaintiff's complaint against Defendants Garcia and Bursiaga for excessive force in violation of the Eighth Amendment. All parties have consented to Magistrate Judge jurisdiction and the case has been reassigned to the undersigned for all further purposes and proceedings, including trial and entry of judgment. (ECF No. 28.)

On April 9, 2019, Plaintiff was served with: Defendant Bursiaga's Special Interrogatories (Set One) and Request for Production of Documents (Set One) and Defendant Garcia's Special Interrogatories (Set One) and Request for Production of Documents (Set One). (Declaration of

1 Matthew P. Bunting, ECF No. 31-1, Exhibits 1–4.) Plaintiff did not respond. (Id. ¶ 7.) Plaintiff  
2 also did not respond to a meet and confer letter from defense counsel. (Id. ¶ 10.)

3 On July 10, 2019, Defendants filed a motion to compel regarding Plaintiff’s failure to  
4 respond to their discovery requests. (ECF No. 31.) The Court stayed briefing on the motion to  
5 compel and ordered the parties to meet and confer, but the parties were unable to resolve the  
6 dispute. (ECF Nos. 32, 33.) The Court reinstated briefing on the motion to compel, but Plaintiff  
7 failed to file an opposition or otherwise communicate with the Court. Accordingly, on June 19,  
8 2020, the Court granted Defendants’ motion to compel and ordered Plaintiff to serve answers and  
9 responses to the outstanding discovery requests within thirty days.<sup>1</sup> (ECF No. 38.)

10 Currently before the Court is Plaintiff’s request for extension of deadline, filed July 17,  
11 2020. (ECF No. 39.) The deadline for Defendants to file an opposition or other response has  
12 expired, and the motion is deemed submitted. Local Rule 230(l).

13 In his motion, Plaintiff states that his failure to file a response was not due to  
14 unwillingness on his part, but merely a lack of knowledge and the current environment in the  
15 prison. (ECF No. 39.) Plaintiff states that his building has been on medical isolation for two and  
16 a half months due to precautionary measures after an officer that works in the building contracted  
17 COVID-19. Plaintiff states that the facility has been on a modified program since March, which  
18 included closure of access to the law library. During this time, Plaintiff also lost a lot of his  
19 paperwork and legal materials due to cell searches and staff confiscating items, such as metal  
20 clips on envelopes, that are considered contraband. Plaintiff states that he was not able to respond  
21 to anything due to the medical isolation and COVID-19 quarantine, but he would like to litigate  
22 this action. Plaintiff requests that “all that stuff they want” be re-served, as well as an extension  
23 of time to respond. (Id.)

24 Plaintiff does not specify the length of extension requested, nor is it clear to the Court  
25 whether he is seeking an extension of time to oppose Defendants’ motion to compel or merely an

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26 <sup>1</sup> In the same order, the Court also granted Defendants’ request for sanctions, assessed reasonable  
27 expenses in the amount of \$615.00 against Plaintiff, and stayed the order assessing reasonable  
28 expenses. (ECF No. 38.) The Court further extended the discovery and dispositive motion  
deadlines. (Id.)

1 extension of time to respond to the discovery requests. Nevertheless, given the current procedural  
2 posture of this matter, the Court construes the motion as a request for an extension of time to  
3 respond to Defendants' discovery requests.<sup>2</sup>

4 Having considered the request, and in light of Defendants' failure to file an opposition, the  
5 Court finds good cause to extend the deadline for Plaintiff to respond to Defendants' written  
6 discovery requests. The Court also finds good cause to grant Plaintiff's request for re-service of  
7 Defendants' discovery requests.

8 Accordingly, IT IS HEREBY ORDERED as follows:

- 9 1. Plaintiff's motion for extension of time to respond to Defendants' written discovery  
10 request, (ECF No. 39), is GRANTED;
- 11 2. Defendants shall re-serve a courtesy copy of the April 9, 2019 discovery requests on  
12 Plaintiff within **seven (7) days** from the date of service of this order;
- 13 3. Plaintiff's responses to the discovery requests shall be served on Defendants (but not filed  
14 with the Court) within **forty-five (45) days** from the date of service of this order; and
- 15 4. **If Plaintiff fails to comply with this order, Defendants are not precluded from**  
16 **seeking appropriate sanctions, up to and including terminating sanctions, pursuant**  
17 **to Federal Rule of Civil Procedure 37(b)(2).**

18  
19 IT IS SO ORDERED.

20 Dated: August 10, 2020

21 /s/ Barbara A. McAuliffe  
22 UNITED STATES MAGISTRATE JUDGE

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27 <sup>2</sup> To the extent Plaintiff is requesting an extension of time to oppose the motion to compel, the  
28 Court notes that Plaintiff's opposition was due on or before April 20, 2020, nearly four months  
ago. As the deadline has long since expired, the Court does not find good cause for an extension  
of this deadline.