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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA

10 JASON HARPER,

11 Plaintiff,

12 v.

13 JEFF BLAZO,

14 Defendant.
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Case No. 1:17-cv-01717-LJO-EPG (PC)

ORDER FOLLOWING HEARING

16 Jason Harper (“Plaintiff”) is a state prisoner proceeding *pro se* and *in forma pauperis* in
17 this civil rights action filed pursuant to 42 U.S.C. § 1983.

18 On June 14, 2019, the Court held a hearing on Plaintiff’s motion to compel (ECF No.
19 35). Plaintiff telephonically appeared on his own behalf. Counsel William McCaslin
20 telephonically appeared on behalf of Defendant.

21 For the reasons stated on the record at the hearing, IT IS ORDERED that:

- 22 1. Defense counsel shall promptly contact the Court’s Alternate Dispute Resolution
23 Coordinator, Sujean Park (spark@caed.uscourts.gov), to schedule a settlement
24 conference.
- 25 2. If the case fails to settle at the settlement conference, within three weeks after the
26 date of the settlement conference Defendant shall make a supplemental submission
27 regarding the following:
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- 1 a. The date that Defendant submitted documents to the Court for *in camera*
2 review;
- 3 b. Whether Defendant or the California Department of Corrections and
4 Rehabilitation have any responsive documents to Plaintiff's requests for
5 production numbers 2, 3, 4, and 5 regarding documents related to any
6 Cal/OSHA investigations. Counsel agreed Defendants would not limit the
7 response to request Number 2 based on whether any inspection was a
8 "surprise." The Court notes the legal obligations to preserve Cal/OSHA
9 investigation documents set forth in Cal. Code Regs, tit. 8, section 5189; and
- 10 c. Legal authority supporting Defendant's decision to withhold witness
11 statements related to the incident, in light of Woodford v. Ngo, 548 U.S. 81,
12 95 (2006) ("proper exhaustion improves the quality of those prisoner suits
13 that are eventually filed because proper exhaustion often results in the
14 creation of an administrative record that is helpful to the court. When a
15 grievance is filed shortly after the event giving rise to the grievance,
16 witnesses can be identified and questioned while memories are still fresh,
17 and evidence can be gathered and preserved.").

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19 IT IS SO ORDERED.

20 Dated: June 14, 2019

21 /s/ Eric P. Grogan
22 UNITED STATES MAGISTRATE JUDGE
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