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8 UNITED STATES DISTRICT COURT  
9 EASTERN DISTRICT OF CALIFORNIA  
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11 STEVE ROCKY NICKLAS,

12 Plaintiff,

13 v.

14 W. KOKOR and MS. MATA,

15 Defendants.  
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Case No. 1:18-cv-00119-LJO-EPG (PC)

ORDER GRANTING DEFENDANTS'  
MOTION FOR A PROTECTIVE ORDER

(ECF No. 50)

17 Steve Rocky Nicklas (“Plaintiff”) is a state prisoner proceeding *pro se* and *in forma*  
18 *pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983.

19 On July 18, 2019, the Court held an initial scheduling conference. After the conference,  
20 the Court issued a scheduling order. (ECF No. 46). Given Plaintiff’s allegations that he could  
21 not read or write, and could not obtain any assistance to prepare discovery or responses, and  
22 after substantial discussion with the parties about the best way to proceed, the Court declined to  
23 open discovery generally. (ECF No. 46, p. 2). Instead, the Court issued certain orders that  
24 relevant documents be produced without any further discovery requests, allowed Defendants to  
25 depose Plaintiff, but otherwise left discovery closed. (*Id.*). Plaintiff did not object to this  
26 limitation. Indeed, discovery was so limited based on Plaintiff’s own representations that he  
27 could not meaningfully participate in discovery.

28 On August 15, 2019, Defendants filed a motion for a protective order. (ECF No. 50).

1 According to Defendants, despite the Court’s order limiting discovery, and “[d]espite repeated  
2 indications at the Scheduling Conference that he had everything he needed to litigate the case,”  
3 Plaintiff “served Defendants with more than thirty discovery requests (including subparts).”  
4 (ECF No. 50-1, p. 1). Defendants ask for “a protective order limiting Defendants’ obligations  
5 to respond to any outstanding discovery until Plaintiff requests leave to propound discovery or  
6 explains his contradictory assertions from the Scheduling Conference.” (Id.).

7 Plaintiff filed his opposition to the motion on September 3, 2019. (ECF No. 54).  
8 Plaintiff argues that he is entitled to discovery under the Federal Rules of Civil Procedure, that  
9 Defendants’ motion was filed in bad faith, and that Defendants are seeking to hinder him from  
10 obtaining relevant evidence.

11 Plaintiff’s opposition ignores what he said at the scheduling conference and the Court’s  
12 order limiting discovery. Again, the Court limited discovery entirely based on Plaintiff’s  
13 assertion that he could not read or write or currently obtain assistance to meaningfully  
14 participate in discovery. Based on these representations, the Court made certain orders to  
15 ensure that relevant discovery was provided without further discovery requests. The Court then  
16 limited both Plaintiff’s and Defendants’ ability to take discovery without a further order.  
17 Plaintiff did not object to this limitation at the scheduling conference.

18 As Plaintiff does not address the assertions he made at the scheduling conference or the  
19 Court’s order limiting discovery, the Court will grant Defendants’ motion for a protective  
20 order, so that Defendants do not need to respond to any discovery requests at this time. While  
21 the Court is glad to see that Plaintiff in fact does have the ability to fully participate in this case,  
22 as demonstrated by Plaintiff’s thorough written discovery requests, Plaintiff’s discovery still  
23 violates the Court’s order. Moreover, Defendants have refrained from taking discovery on  
24 Plaintiff in reliance on that order.

25 However, the Court will allow Plaintiff to file a motion to open discovery generally. If  
26 Plaintiff chooses to file such a motion, he should explain how his circumstances have changed  
27 from what he alleged at the scheduling conference, and why discovery should be opened  
28 generally. If Plaintiff files a motion to open discovery and it is granted, Defendants will have

1 forty-five days from the date of service of the order granting the motion to respond to  
2 Plaintiff's discovery requests.

3 The Court notes that if discovery is opened generally, Plaintiff will have to respond to  
4 discovery requests he receives from Defendants. Additionally, deadlines may need to be  
5 extended.

6 Based on the foregoing, IT IS ORDERED that:

- 7 1. Defendants' motion for a protective order is GRANTED. Defendants do not  
8 need to respond to any discovery requests from Plaintiff at this time.
- 9 2. Plaintiff has forty-five days from the date of service of this order to file a motion  
10 to open discovery generally. If Plaintiff files this motion and it is granted,  
11 Defendants have forty-five days from the date of service of the order granting  
12 the motion to respond to the discovery requests that defense counsel received on  
13 August 5, 2019.

14 IT IS SO ORDERED.

15 Dated: September 20, 2019

16 /s/ Eric P. Grogan  
17 UNITED STATES MAGISTRATE JUDGE  
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