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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

HULEN T. HARRELL,

Plaintiff,

No. CIV S-04-1968 JAM DAD P

vs.

P.D. PALMER, et al.,

Defendants.

ORDER

_____ /

Plaintiff is a state prisoner proceeding pro se and in forma pauperis with an action filed pursuant to 42 U.S.C. § 1983. On May 17, 2010, defendant filed a motion requesting the suspension of the scheduling order in this case. In particular, defendant requested that the court suspend the discovery and dispositive motion deadlines in this case, while the court considered defendant’s March 16, 2010 renewed motion for terminating and monetary sanctions.

On August 13, 2010, the undersigned issued findings and recommendations in this action recommending that defendant’s March 16, 2010 renewed request for terminating sanctions be granted. Therein, the undersigned addressed plaintiff’s repeated and unjustified refusal to participate in his deposition and found that his conduct warrants the dismissal of this action. Accordingly, in light of those findings and recommendations, defendant’s request for the suspension of the court’s scheduling order has been rendered moot.

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Therefore, for the reasons set forth above, IT IS HEREBY ORDERED that:

1. Defendant's May 17, 2010 motion to modify the scheduling order in this case (Doc. No. 72) is denied as having been rendered moot; and

2. If the assigned district judge in this case declines to adopt the undersigned's August 13, 2010 findings and recommendations, the court will vacate the February 26, 2010 scheduling order and modify the discovery and dispositive motion deadlines, to the extent the court deems necessary.

DATED: August 13, 2010.



DALE A. DROZD
UNITED STATES MAGISTRATE JUDGE

DAD:sj
harr1968.46.susp