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

EDGAR BERNABE,

No. CIV S-05-2522-LKK-CMK-P

Plaintiff,

vs.

ORDER

TERESA A. SCHWARTZ, et al.,

Defendants.

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Plaintiff, a state prisoner proceeding pro se, brings this civil rights action pursuant to 42 U.S.C. § 1983. Pending before the court is defendants’ motion to compel (86) responses to interrogatories. Plaintiff has not filed any response to the motion and, to date, has not served responses to defendants’ interrogatories.

Federal Rule of Civil Procedure 37(d) provides, in pertinent part, as follows:

If a party...fails...to serve answers or objections to interrogatories submitted under Rule 33, after proper service of the interrogatories, or...to serve a written response to a request for inspection submitted under Rule 34, after proper service of the request, the court in which the action is pending on motion may make such orders in regard to the failure as are just, and among others it may take any action authorized under subparagraph (A), (B), and (C) of subdivision (b)(2) of this rule.

1 Further, the rule provides that the failure to serve timely responses to discovery may not be  
2 excused on the ground that the discovery sought is objectionable unless the party so asserting has  
3 a motion for a protective order pending. See Fed. R. Civ. P. 37(d). In this case, defendants have  
4 established that they served several sets of interrogatories and that plaintiff has failed to respond.  
5 Therefore, defendants' motion to compel will be granted and plaintiff will be required to serve  
6 responses. Objections are waived absent a showing of good cause. See Safeco Ins. Co. of  
7 America v. Rawstrom, 183 F.R.D. 668, 672 (C.D. Cal. 1998).

8 In their motion, defendants have requested either monetary or dismissal sanctions  
9 for plaintiff's failure to respond to their interrogatories. The court finds that the request is  
10 premature. Defendants may renew their request for sanctions if plaintiff fails to comply with this  
11 order compelling responses. Plaintiff is cautioned that the court is inclined to recommend, on  
12 defendants' motion, that this action be dismissed as an appropriate sanction for failure to comply  
13 because monetary sanctions are ineffective where, as here, the non-complying party is proceeding  
14 in forma pauperis.

15 Finally, defendants request extension of the dispositive motion cut-off date. In  
16 light of plaintiff's failure to provide timely responses to interrogatories, defendants' request will  
17 be granted.

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