

1
2
3
4
5
6
7
8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 RENO FUENTES RIOS,

11 Plaintiff,

No. 2:07-cv-0790 WBS KJN P

12 vs.

13 J.E. TILTON, et al.,

14 Defendants.

ORDER

15 _____/
16 Presently pending before the court is plaintiff's motion to compel defendants to
17 comply with the order of this court filed September 24, 2010, which provided, in pertinent part:

18 Within thirty (30) days of the filing date of this order, defendants shall
19 personally serve plaintiff with a supplemental response to plaintiff's
20 Request No. 1, Requests for Production (Set One), which may be set forth
21 in a CDC Form 1030 or similar format, and includes all information
22 contained in plaintiff's central file that was initially relied upon to validate
23 plaintiff as a gang affiliate, and has been thereafter relied upon to maintain
24 such validation, properly redacted as set forth in California Code of
25 Regulations, Title 15, Sections 3321 and 3378.

23 (Dkt. No. 81, at 18.) Although plaintiff has attached copies of documents produced by
24 defendants, the court is unable to ascertain the merits of plaintiff's motion without a statement
25 from defendants.

26 ///

1 Defendants have not filed an opposition to plaintiff's motion, and the time for
2 doing so has expired. See Local Rule 230(1) ("Failure of the responding party to file an
3 opposition or to file a statement of no opposition may be deemed a waiver of any opposition to
4 the granting of the motion and may result in the imposition of sanctions."). Application of this
5 rule is unhelpful in resolving the merits of the instant discovery motion because plaintiff
6 challenges the production of documents within defendants' control. Given the importance of the
7 subject discovery, defendants will be required to respond to plaintiff's motion, and to show cause
8 why sanctions should not be imposed against defendants based on their failure to file a timely
9 response to plaintiff's motion.

10 Meanwhile, defendants filed a motion for summary judgment within the deadline
11 set by this court, for which plaintiff seeks an extension of time within which to file his
12 opposition. Plaintiff need not file an opposition to defendants' motion for summary judgment
13 until so ordered by this court.

14 Accordingly, for the foregoing reasons, IT IS HEREBY ORDERED that:

15 1. Defendants shall, within twenty-one (21) days after the filing date of this order,
16 show cause why they should not be sanctioned for failure to file an opposition to plaintiff's
17 motion filed November 15, 2010 (Dkt. No. 82), and shall file such opposition or statement of
18 nonopposition;

19 2. Plaintiff may, within fourteen (14) days after service of defendants' opposition,
20 file a reply; and

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

1 3. Plaintiff's motion for an extension of time (Dkt. No. 85) is granted; the
2 deadline for filing an opposition to defendants' motion for summary judgment is suspended until
3 further order of this court.¹

4 DATED: December 15, 2010

5 
6 KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE

7 rios0790.misc
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

25 ¹ This ruling is not intended to discourage plaintiff from continuing to prepare his
26 opposition which must, in due time, be filed.