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

JOHN WASHINGTON,
Plaintiff,

No. 2:08-cv-0386-KJM-CMK-P

vs.

ORDER

SALEM MOHAMMED, et al.,
Defendants.

_____ /

Plaintiff, a state prisoner proceeding pro se, brings this civil rights action pursuant to 42 U.S.C. § 1983.

Pending before the court are plaintiff’s motion to set a trial date (Doc. 70) and motion to compel (Doc. 73). Both of these motions were filed prematurely, and will be denied without prejudice on that basis. This case has a rather complicated history. However, after significant proceedings, an answer was filed on August 13, 2015 (Doc. 75). The court then issued a scheduling order, opening discovery and setting appropriate deadlines (Doc. 76).

The two motions at issue in this order were both filed prior to the answer and scheduling order. As such, plaintiff’s request for the court to set a trial date is premature. The parties will need to complete discovery and file any dispositive motions deemed appropriate prior

1 to the court setting a trial date. Similarly, plaintiff's motion to compel was filed prior to answer
2 and the court issuing the scheduling order and opening discovery. Until an answer is filed, the
3 case is not at issue, and discovery cannot commence. Thus, any discovery requests plaintiff sent
4 prior to the filing of the answer and scheduling order were premature and the defendants had no
5 obligation to respond. Now that the case is at issue and the scheduling order in place, discovery
6 has commenced. It appears there are additional discovery issues, which the court will address in
7 a separate order.

8 Accordingly, IT IS HEREBY ORDERED that plaintiff's motion to set trial date
9 (Doc. 70) and motion to compel (Doc. 73) are denied without prejudice.

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11 DATED: March 24, 2016

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13 **CRAIG M. KELLISON**
14 UNITED STATES MAGISTRATE JUDGE
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