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

LACEDRIC W. JOHNSON,

Plaintiff,

No. 2:08-cv-1609 JAM KJN P

vs.

D.K. SISTO, et al.,

Defendants.

ORDER

_____/

Plaintiff is a state prisoner proceeding without counsel in this civil rights action for relief pursuant to 42 U.S.C. § 1983. On October 4, 2010, plaintiff filed a motion for more definite statement pursuant to Rule 12(e) of the Federal Rules of Civil Procedure. (Dkt. No. 41.) Rule 12(e) provides, in pertinent part: “A party may move for a more definite statement of a pleading to which a responsive pleading is allowed. . . .” (Id.)

Plaintiff seeks a more definite statement of defendants’ answer. However, the Federal Rules of Civil Procedure do not contemplate a responsive pleading to an answer:

There shall be a complaint and an answer; a reply to a counterclaim denominated as such; an answer to a cross-claim, if the answer contains a cross-claim; a third-party complaint, if a person who was not an original party is summoned under the provisions of Rule 14; and a third-party answer, if a third-party complaint is served. No other pleading shall be allowed, except that the court may order a reply to an answer or a third-party answer.

1 Fed. R. Civ. P. 7(a) (emphasis added). The court has not ordered plaintiff to reply to defendants'
2 answer and declines to make such an order. As no responsive pleading to the answer is allowed
3 absent a court order, plaintiff's motion is not well-taken and will be denied.

4 On October 4, 2010, plaintiff filed an affidavit stating that on September 16, 2010,
5 he mailed the court a request for extension of time and motion to compel, and asks the court to
6 append additional documents to his pending motion to compel. Review of the docket, however,
7 reflects no pending motion for extension or motion to compel. It appears plaintiff sought an
8 extension of time in which to comply with this court's August 26, 2010 order requiring plaintiff
9 to submit four USM-285 forms in order to accomplish service of process on defendants for
10 whom service was returned unexecuted. (Dkt. No. 35.) Plaintiff is attempting to locate these
11 defendants through discovery. (Dkt. No. 42.) Therefore, plaintiff will be granted an extension of
12 time in which to comply with the August 26, 2010 order. Because the court has not received a
13 motion to compel discovery from plaintiff, the court is unable to append the documents
14 submitted on October 4, 2010.

15 Accordingly, IT IS HEREBY ORDERED that:

- 16 1. Plaintiff's October 4, 2010 motion (dkt. no. 41) is denied.
17 2. Plaintiff's October 4, 2010 request for an extension of time is granted; and
18 3. Plaintiff is granted sixty days from the date of this order in which to comply
19 with this court's August 26, 2010 order.

20 DATED: October 8, 2010

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23 KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE

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