

1
2
3
4
5
6
7
8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE EASTERN DISTRICT OF CALIFORNIA**
10

11 MARVIN HARRIS,

No. CIV S-08-1615-CMK-P

12 Plaintiff,

13 vs.

ORDER

14 JAMES WALKER, et al.,

15 Defendants.
16 _____/

17 Plaintiff, a state prisoner proceeding pro se, brings this civil rights action pursuant
18 to 42 U.S.C. § 1983. Pending before the court are the following discovery-related documents
19 filed by plaintiff on July 21, 2009: (1) “Notice of Motion for Protective Order to Compel
20 Access to Personnel Records and Judicial Records and Compel Access to Discovery documents
21 Materials” (Doc. 27); (2) “Plaintiff First Request for Production of Documents” (Doc. 28);
22 (3) “Notice of Motion for an Order Compelling Discovery” (Doc. 29); (4) “Notice of First Set of
23 Interrogatories” (Doc. 30); (5) “Plaintiff Second Set of Interrogatories to Defendants” (Doc. 31);
24 and (6) “Plaintiff’s Third Set of Interrogatories to Defendants” (Doc. 32). Also before the court
25 are the following filings relating to plaintiff’s request for summary judgment: (1) “Notice of
26 Motion and Motion to File Motion for Summary Judgment” (Doc. 33); (2) “Notice of Motion

1 and Motion for Summary Judgment” (Doc. 34); (3) “Notice of Motion and Motion for Summary
2 Judgment Separate Statement of Disputed Facts; Memorandum of Points and Authorities;
3 Supporting Declarations” (Doc. 35); (4) “Notice of Declaration of James Caldwell in Support of
4 Notice of Motion and Motion for Summary Judgment” (Doc. 36); (5) “Notice of Declaration of
5 Belcher in Support of Plaintiff Notice of Motion and Motion for Summary Judgment” (Doc. 37);
6 (6) “Notice of Declaration of James Branch in Support of Motion and Motion for Summary
7 Judgment” (Doc 38); (7) “Notice of Declaration of Ford in Support of Notice of Motion and
8 Motion for Summary Judgment” (Doc. 39); and (8) “Plaintiff’s Brief in Opposition” (Doc. 40).

9 Because no defendant in this case has yet filed an answer, the action is not at issue
10 and any discovery is premature. Therefore, plaintiff’s motions to compel (Docs. 27 and 29) will
11 be denied. As to plaintiff’s discovery requests, once discovery is appropriate such requests
12 should be served on defendants and not filed with the court except in the context of a proper
13 motion to compel. Therefore, plaintiff’s discovery requests (Docs. 28, 30, 31, and 32) will be
14 stricken. By separate order issued after an answer is filed, plaintiff will be advised as to how to
15 proceed with discovery in this action.

16 As with plaintiff’s discovery-related filings, any request for summary judgment is
17 also premature because the case is not yet at issue and defendants have not had an opportunity to
18 conduct their own discovery or respond to plaintiff’s discovery. Plaintiff’s filings relating to
19 summary judgment will, therefore, be disregarded at this time. Plaintiff may renew his motion at
20 a later stage in the proceedings after discovery has closed. By separate order issued after an
21 answer is filed, the court will set a schedule for this case including a discovery cut-off date and a
22 date by which dispositive motions must be filed.

23 ///

24 ///

25 ///

26 ///

1 Accordingly, IT IS HEREBY ORDERED that:

2 1. Plaintiff's motions to compel (Docs. 27 and 29) are denied as premature;

3 2. Plaintiff's discovery requests (Docs. 28, 30, 31, and 32) are stricken;

4 3. Plaintiff's filings relating to summary judgment (Docs. 33, 34, 35, 36, 37,
5 38, 39, and 40) are disregarded; and

6 4. The Clerk of the Court is directed to terminate all pending motions.

7
8 DATED: July 27, 2009

9 
10 **CRAIG M. KELLISON**
11 UNITED STATES MAGISTRATE JUDGE
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26