

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

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

CHARLES ROBERT GORTON,

Plaintiff,

No. CIV S-08-3069 LKK GGH P

vs.

TODD, et al.,

Defendant.

ORDER

\_\_\_\_\_ /

On April 30, 2010, defendants Todd, Martinez, Naseer, Hawkins, Smith, Nale and Williams filed a motion for summary judgment. On May 7, 2010, plaintiff filed a motion to stay the motion for summary judgment as plaintiff had “not been granted any Order for discovery” for these defendants. Plaintiff is confused. Plaintiff does not need permission from the court to conduct discovery. Plaintiff seems to be referring to the court’s May 28, 2010, Discovery and Scheduling Order that described generally how discovery is conducted and referenced another set of defendants. Doc. 21. The court does not issue an Order each time a defendant answers the complaint. The defendants who plaintiff did not conduct discovery on, answered the complaint approximately 10 days after the court issued the Discovery and Scheduling Order on May 28, 2010, for the other set of defendants.

////

1 Plaintiff has not supplied an adequate explanation on why he decided not to  
2 commence discovery against these defendants over the course of the last year or why plaintiff has  
3 waited until now to request permission to conduct discovery when defendant have just filed a  
4 motion for summary judgment. On July 22, 2009, plaintiff file a request concerning the status of  
5 another defendant, H. Rad. Doc. 27. On August 4, 2009, the court issued an Order explaining  
6 that defendant H. Rad had previously answered the complaint and plaintiff could conduct  
7 discovery on defendant Rad until November 6, 2009. Doc. 28. Defendant H. Rad answered the  
8 complaint less than two weeks before the instant defendants answered who plaintiff has not  
9 conducted discovery on, yet for some unexplained reasons plaintiff chose not pursue discovery  
10 on these defendants or inquire to the court for status.

11 Moreover, plaintiff has not provided any specific information concerning what  
12 discovery he needs from these defendants, simply stating he is at a disadvantage. As plaintiff has  
13 not explained what discovery he will be requesting, the court will only provide a limited time for  
14 plaintiff and these defendants to conduct discovery. No extensions will be granted. The court  
15 will also vacate the April 30, 2010, motion for summary judgment and defendants will be  
16 provided an opportunity to re-notice the summary judgment motion at a later date.

17 Accordingly, IT IS HEREBY ORDERED that:

18 1. The April 30, 2010, motion for summary judgment (Doc. 71) is vacated and  
19 defendants will be provided an opportunity to re-notice the motion at a later date;

20 2. The motion to stay (Doc. 72) is vacated;

21 3. Plaintiff and defendants Todd, Martinez, Naseer, Hawkins, Smith, Nale and  
22 Williams may conduct discovery upon each other until August 18, 2010; any motion to compel  
23 shall be filed by that date; all requests for discovery pursuant to Fed. R. Civ. P. 31, 33, 34 or 36  
24 shall be served not later than sixty days prior to that date. No extensions will be granted.

25 ////

26 ////

