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

MANUEL CHAIREZ,

Plaintiff,

No. CIV S-09-786 GEB GGH P

vs.

D. DEXTER, et al.,

Defendants.

ORDER

\_\_\_\_\_ /

Pending before the court is plaintiff’s motion to compel filed December 2, 2009. Plaintiff seeks to compel defendants to provide him with the business or residence address for defendant Dix. For the following reasons, this motion is denied.

Process directed to defendant Dix was returned unserved because he was not at the facility identified by plaintiff or in the CDCR locator database. Accordingly, on October 6, 2009, the court granted plaintiff sixty days to obtain and submit additional information for service of defendant Dix. The October 6, 2009, order stated that plaintiff could seek this information through discovery, the California Public Records Act, Cal. Govt. Code § 6520 et seq., or any other means available.

In the pending motion to compel, plaintiff alleges that defendants have refused to provide him with the business or residence address for defendant Dix. Plaintiff alleges that he

1 requested this information from defendants pursuant to the California Public Records Act.

2 In the opposition filed December 14, 2009, defendants state that plaintiff's motion  
3 should be denied because California Public Records Act prohibits state agencies from providing  
4 home addresses and telephone numbers of state employees. Cal. Gov. Code § 6254.3(a). For  
5 this reason, defendants argue that they should be not required to provide plaintiff with  
6 defendants' home address. Defendants go on to state that neither defendants nor their counsel  
7 have any contact information for defendant Dix.

8 The court cannot order defendants to provide plaintiff with information they do  
9 not have in their possession. For that reason, the motion to compel is denied.

10 Plaintiff is granted thirty days from the date of this order to obtain additional  
11 information for service of defendant Dix. Plaintiff is informed that the U.S. Marshal service  
12 recently informed the court that the USM-285 form for defendant Dix was returned with a note  
13 stating that he had since retired, possibly out of state, and that the agency where he was employed  
14 (OSC) had no forwarding information. Based on this information, it may be difficult for plaintiff  
15 to locate defendant Dix.

16 Accordingly, IT IS HEREBY ORDERED that:

- 17 1. Plaintiff's motion to compel (no. 31) is denied;  
18 2. Plaintiff is granted thirty days from the date of this order to provide the court  
19 will additional information for service of defendant Dix.

20 DATED: January 20, 2010

21 /s/ Gregory G. Hollows

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UNITED STATES MAGISTRATE JUDGE

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