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

JOSEPH B. MATTHEWS,

Plaintiff,

No. 2:09-cv-2415 GEB KJN P

vs.

LAHEY, et al.,

Defendants.

ORDER

_____ /

Plaintiff is a state prisoner proceeding without counsel. On June 1, 2012, plaintiff filed a motion to compel discovery. (Dkt. No. 91.) Plaintiff seeks to compel answers to interrogatories, set four, propounded to defendant Basi. Plaintiff states he submitted the interrogatories on May 30, 2012, but did not receive the answers.

Defendants oppose plaintiff’s motion, claiming that on May 29, 2012, responses to plaintiff’s interrogatories, set four, were served on plaintiff, but noted that defendant Basi’s verification would follow. On June 5, 2012, defendants sent plaintiff a letter, enclosing defendant Basi’s verification. Plaintiff did not file a reply.

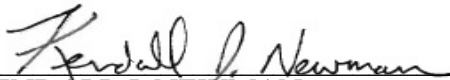
By order filed January 26, 2012, the scheduling order was revised, and the discovery deadline was extended to April 9, 2012. (Dkt. No. 89.) Thus, all motions necessary to compel discovery were to be filed by April 9, 2012.

1 The dates contained within plaintiff's motion to compel are not clear. Although
2 the motion was signed and dated by plaintiff on May 30, 2012, he states he submitted the
3 interrogatories to defendant Basi on May 30, 2012. (Dkt. No. 91 at 1.) However, the appended
4 interrogatories are signed and dated by plaintiff on March 21, 2012. (Dkt. No. 91 at 4.) The
5 proof of service form, appended at the end of plaintiff's filing, does not contain the name of the
6 document served, but is signed and dated by plaintiff on May 5, 2012. (Dkt. No. 91 at 5.) The
7 unidentified document was served on the United States District Court. (Dkt. No. 91 at 6.)

8 In any event, whether the motion to compel was presented to prison officials for
9 mailing¹ on May 5, 2012, or May 30, 2012, it was untimely filed, because all motions to compel
10 were to be filed by April 9, 2012. Furthermore, defendant Basi has provided copies of the
11 responses provided, as well as the later submitted verification. Plaintiff has filed nothing further
12 to rebut defendant's June 22, 2012 filing.

13 Accordingly, IT IS HEREBY ORDERED that plaintiff's June 1, 2012 motion to
14 compel discovery (dkt. no. 91) is denied.

15 DATED: July 3, 2012

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18 KENDALL J. NEWMAN
19 UNITED STATES MAGISTRATE JUDGE

20 matt2415.mtc

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¹ See Houston v. Lack, 487 U.S. 266, 275-76 (1988) (pro se prisoner filing is dated from the date prisoner delivers it to prison authorities).