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

JAMES S. GRILL,

Plaintiff,

No. CIV S-10-0757 GEB GGH PS

vs.

TOM QUINN,

Defendant.

ORDER

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Previously pending on this court’s law and motion calendar for November 10, 2011, was plaintiff’s motion to compel, filed October 13, 2011. Defendant was directed to file an opposition which was filed on October 27, 2011. Plaintiff appeared in pro se. Shelley Weger appeared for defendant. Having now heard oral argument and reviewed the papers, the court issues the following order.

The operative complaint is the amended complaint which contains two distinct causes of action for (1) breach of contract and (2) lack of procedural due process. Plaintiff sought to initiate a discovery conference with defendant, who responded that because this is an action for review of an administrative record under the Administrative Procedure Act (“APA”), the government is exempt from Rule 26. Plaintiff then filed the instant motion to compel, arguing that his claim for lack of procedural due process is a claim arising under the Constitution and therefore it is not subject to the APA.

