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

JERRY W. BAKER,

Plaintiff,

No. 2:10-cv-1208 FCD KJN P

vs.

C/O J. SMITH, et al.,

Defendants.

ORDER

_____ /

Plaintiff is a state prisoner proceeding without counsel. On March 22, 2011, plaintiff filed a motion to compel defendants to produce documents. On March 25, 2011, defendants filed an opposition and a request to sanction plaintiff for his alleged repeated violation of the Federal Rules of Civil Procedure.

“Responses to written discovery requests shall be due forty-five days after the request is served.” (Dkt. No. 27 at 5.)

Plaintiff claims he has requested documents from the defendants three times, but that defendants have failed to respond. However, plaintiff did not provide a copy of any of the requests for production of documents. Conversely, defendants state plaintiff propounded the requests for production of documents on March 8, 2011 and March 11, 2011. (Dkt. No. 44 at 1.) Plaintiff filed his motion to compel on March 22, 2011. As to the requests propounded on March

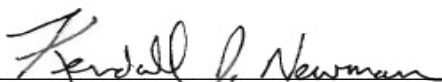
1 8 and 11, 2011, defendants' responses are not yet due pursuant to the court's December 2, 2010
2 discovery and scheduling order. (Dkt. No. 27 at 5.) Accordingly, plaintiff's motion is premature
3 and is denied.

4 The court turns now to defendants' request for sanctions based on plaintiff's
5 violation of the Federal Rules of Civil Procedure. Defendants point out plaintiff's first violation
6 occurred when he filed a motion to compel production of documents before serving the initial
7 request for production on defendants. (Dkt. No. 34.) Plaintiff has now filed a motion to compel
8 discovery responses prior to the deadline for answering the discovery requests. (Dkt. No. 43.)
9 Plaintiff is advised that discovery is a process where he must first serve discovery requests on
10 counsel for defendants, then he must wait for the 45 days' response time to elapse prior to
11 seeking court intervention. Because plaintiff is proceeding without counsel, the court will deny
12 defendants' request for sanctions at this time. However, plaintiff is cautioned that further
13 violations may result in an order imposing sanctions, including, but not limited to, an order
14 requiring payment of defendants' expenses, or a recommendation that the action be dismissed.
15 Fed. R. Civ. P. 37(b)(2)(A)(v) & (C).

16 Accordingly, IT IS HEREBY ORDERED that:

- 17 1. Plaintiff's March 22, 2011 motion to compel (dkt. no. 43) is denied as
18 premature; and
19 2. Defendants' request for sanctions is denied.

20 DATED: April 15, 2011

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24 KENDALL J. NEWMAN
25 UNITED STATES MAGISTRATE JUDGE

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