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

TRI D. NGUYEN,

Plaintiff,

No. 2: 10-cv-1461 WBS KJN P

vs.

BARTOS, et al.,

Defendants.

ORDER

\_\_\_\_\_ /

Plaintiff is a state prisoner proceeding without counsel with a civil rights action pursuant to 42 U.S.C. § 1983. Pending before the court is defendant’s motion to compel filed April 8, 2011. For the following reasons, defendant’s motion is denied. However, defendant is granted an opportunity to serve plaintiff with additional discovery requests in accordance with this order.

Defendant has served plaintiff with contention interrogatories and related requests for production of documents. The court has reviewed these requests as well as plaintiff’s responses. Plaintiff’s responses are not adequate.

However, “[c]ontention interrogatories, directed to a pro se litigant, are rarely appropriate[.]” Nielsen v. Society of New York Hosp., 1988 WL 100197 at \* 2 (S.D.N.Y. 1988); see also Pobursky v. Madera County, 2009 WL 1582847 at \* 2 (E.D. Cal. 2009) (“The Court also

1 noted, and the long, tortured history of discovery in this action demonstrates, the futility of  
2 contention interrogatories, *especially* in actions involving pro se plaintiffs). In this action, the  
3 undersigned finds that contention interrogatories are not appropriate. Defendant would not be  
4 prejudiced by requesting the information he seeks from plaintiff in conventional interrogatories  
5 and requests for production of documents. See Fed. R. Civ. P. 26(b)(2)(C) (court may limit  
6 discovery).


7 Defendant requests an award of attorneys' fees in the amount of \$1137.50 for the  
8 costs incurred in bringing this motion. Because defendant's motion is denied, the request for  
9 costs is denied. Fed. R. Civ. P. 37(a)(5).

10 Accordingly, IT IS HEREBY ORDERED that:

11 1. Defendant's April 8, 2011 motion to compel and for costs (Dkt. No. 27) is  
12 denied without prejudice; and

13 2. Defendant is granted twenty-one days from the date of this order to serve  
14 plaintiff with one set of interrogatories and one set of request for production of documents in  
15 accordance with this order; plaintiff shall respond to this request within twenty-one days  
16 thereafter; defendant may file a motion to compel, if appropriate, within twenty-one days  
17 thereafter.

18 DATED: June 7, 2011

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21 KENDALL J. NEWMAN  
22 UNITED STATES MAGISTRATE JUDGE

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