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

PETER GRAVES,

Plaintiff,

No. CIV S-10-2970 WBS EFB PS

vs.

ERIC HOLDER,

Defendant.

ORDER

_____ /
This case, in which plaintiff is proceeding *in propria persona*, was referred to the undersigned pursuant to 28 U.S.C. § 636(b)(1) and Eastern District of California Local Rule 302(c)(21). On November 23, 2010, the undersigned granted plaintiff's request to proceed *in forma pauperis*; directed plaintiff to supply the United States Marshal, within 14 days, all information needed by the Marshal to effect service of process; and directed the U.S. Marshal to serve process within 90 days of receipt of the required information from plaintiff, without prepayment of costs.¹ Dckt. No. 3. On December 14, 2010, plaintiff notified the court that he

¹ The undersigned also stated: "Pursuant to 28 U.S.C. § 1915(e)(2), the court is directed to dismiss a case filed pursuant to the *in forma pauperis* statute if, at any time, it determines that the allegation of poverty is untrue, or if the action is frivolous or malicious, fails to state a claim on which relief may be granted, or seeks monetary relief against an immune defendant. To the extent plaintiff seeks to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915, the court

1 delivered the service materials to the U.S. Marshal on December 14, 2010, Dckt. No. 10, and on
2 January 3, 2011, the U.S. Marshal informed the court that defendant was served on December 16
3 and 17, 2011 (with an answer due on February 14, 2011). Dckt. Nos. 11, 12.

4 Since the November 23 order, plaintiff has filed several miscellaneous requests with the
5 court. Specifically, on December 10, 2010, plaintiff filed (1) a motion for defendant to be
6 present during court proceedings in this action, Dckt. No. 6; (2) a motion to video-tape court
7 proceedings for defendant's review if defendant "refuses to be present in the courtroom," Dckt.
8 No. 7; (3) a motion to compel defendant to fill out a questionnaire prepared by plaintiff, Dckt.
9 No. 8; and (4) a motion to compel certain third parties to fill out questionnaires prepared by
10 plaintiff, Dckt. No. 9. Then, on January 19 and 26, 2011, plaintiff filed requests for rulings on
11 his earlier motions. Dckt. Nos. 13, 14. Finally, on January 28 and 31, 2011, plaintiff filed two
12 additional motions to compel third parties to fill out questionnaires prepared by plaintiff, and a
13 "motion for leeway" relating to one of those motions to compel. Dckt. Nos. 15, 16, 17.

14 As an initial point, none of plaintiff's motions comply with the notice requirements set
15 forth in the Local Rules. *See* E.D. Cal. L.R. 230, 251. Additionally, because defendant has not
16 yet appeared in this action and because plaintiff's motions for defendant to be present during
17 court proceedings and for court proceedings to be video-taped, Dckt. Nos. 6 and 7, are neither
18 necessary nor ripe, those motions will be denied. Further, although plaintiff seeks to compel
19 defendant and third parties to respond to his questionnaires, Federal Rule of Civil Procedure
20 26(d)(1) provides that "[a] party may not seek discovery from any source before the parties have
21 conferred as required by Rule 26(f)" ² Here, defendant has not answered plaintiff's

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23 cannot make this determination on the present record. Therefore, the court reserves decision on
24 these issues until the record is sufficiently developed." Dckt. No. 3 at 1, n.1.

25 ² It also does not appear that plaintiff has served defendants or the third parties with
26 proper discovery requests pursuant to the Federal Rules of Civil Procedure. Additionally, to the
extent plaintiff seeks to have the U.S. Marshal serve his discovery requests, *see* Dckt. No. 15,
that request is denied since plaintiff has not shown that such costs are contemplated by 28 U.S.C.

1 complaint and there is no indication that the parties have conferred as required by Rule 26(f).

2 Therefore, plaintiff's motions to compel, Dckt. Nos. 8, 9, 15, and 17, and the related "motion for
3 leeway" will be denied.

4 Accordingly, IT IS HEREBY ORDERED that:

5 1. Plaintiff's motion for defendant to be present during court proceedings, Dckt. No. 6, is
6 denied;

7 2. Plaintiff's motion to video-tape court proceedings, Dckt. No. 7, is denied;

8 3. Plaintiff's motions to compel, Dckt. Nos. 8, 9, 15, and 17, are denied;

9 4. Plaintiff's motion for leeway, Dckt. No. 16, is denied; and

10 5. Plaintiff's requests for rulings on his earlier motions, Dckt. Nos. 13 and 14, are denied
11 as moot.

12 DATED: February 3, 2011.


EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE

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25 § 1915. *See Tedder v. Odel*, 890 F.2d 210 (9th Cir. 1989) (The expenditure of public funds on
26 behalf of an indigent litigant is proper only when authorized by Congress); *Toliver v. Community
Action Com'n to Help the Economy, Inc.*, 613 F. Supp. 1070, 1072 (D.C.N.Y. 1985).