

1 compel responses to his first request for production of documents propounded in the summer of
2 2012. Specifically, plaintiff seeks the specific policies, procedures and practices at High Desert
3 State Prison and a copy of his medical records from July 2008. See ECF No. 34. Defendant filed
4 an untimely opposition to this motion, together with a motion for leave to oppose out of time.
5 ECF Nos. 35, 36.

6 II. Timeliness of Motion to Compel

7 While the court does not look favorably on the filing of a motion to compel discovery
8 more than a year after plaintiff received defendant's response to his request for production of
9 documents, the court also notes the delay that has been caused by defense counsel's failure to
10 timely comply with court orders and deadlines in this case. See ECF Nos. 27 (noting failure to
11 respond to order to show cause); 44 (granting an extension of time of the dispositive motions
12 deadline); 42 (same); 38 (same). In light of the litigation delays attributable to both parties, the
13 court will exercise its discretion and entertain plaintiff's untimely motion to compel as well as
14 defendant's untimely opposition thereto.

15 The parties are further advised and cautioned that requests for extensions of time are the
16 exception and not the norm. Multiple motions for extensions of time burden this court's already
17 over-burdened docket and should not be filed in a piecemeal manner. See Local Rule 144(d).

18 III. Motion to Compel Further Response to Requests for Production of Documents

19 Plaintiff seeks to compel further responses to his requests for production (RFP) nos. 1-6
20 and 9 directed to the CDCR, in order to obtain the policies, practices, and procedures specific to
21 High Desert State Prison as well as his prison medical records from July 2008. ECF No. 34 at 2-
22 4. Plaintiff indicates that he signed a release form requesting a copy of his prison medical records
23 on December 31, 2012, but was later informed that he did not have adequate funds on his prison
24 trust account to pay the costs associated with copying them. ECF No. 34 at 13 (declaration of
25 Paul Dean Roberts). As a result, plaintiff requests that a copy be provided free of charge by
26 defendant.¹ Id.

27 ¹ Since this case was removed from state court, defendant paid the \$350 filing fees associated
28 with this case. Therefore, plaintiff has not submitted any motion to proceed in forma pauperis.

1 In opposition, defendant CDCR noted that documents responsive to plaintiff's RFP nos. 1-
2 6 had just been located concerning the specific polices of the Central Treatment Center at High
3 Desert State Prison where plaintiff was housed in July 2008. See ECF Nos. 36, 36-3 at 7-19.
4 Therefore, defendant has supplemented their initial response to requests for production nos. 1-6.
5 ECF No. 36-3 at 7-19. Defendant continues to object to request for production no. 9 related to
6 plaintiff's prison medical records from July 2008 arguing that they are equally available for
7 plaintiff's inspection and copying at his current prison. ECF Nos. 36 at 4, 36-1 at 5-6.

8 III. Legal Standard

9 Parties may obtain discovery regarding any nonprivileged matter that is relevant to any
10 party's claim or defense, and for good cause, the court may order discovery of any matter relevant
11 to the subject matter involved in the action. Fed. R. Civ. P. 26(b)(1). Relevant information need
12 not be admissible at the trial if the discovery appears reasonably calculated to lead to the
13 discovery of admissible evidence. Id.

14 Generally, if the responding party objects to a discovery request, the party moving to
15 compel bears the burden of demonstrating why the objections are not justified. See e.g., Grabek
16 v. Dickinson, 2012 WL 113799, at *1 (E.D. Cal. Jan.13, 2012); Womack v. Virga, 2011 WL
17 6703958, at *3 (E.D. Cal. Dec. 21, 2011). This requires the moving party to inform the Court
18 which discovery requests are the subject of the motion to compel, and, for each disputed
19 response, why the information sought is relevant and why the responding party's objections are
20 not meritorious. Grabek, 2012 WL 113799, at *1; Womack, 2011 WL 6703958, at *3.

21 The Court is vested with broad discretion to manage discovery, Hunt v. County of Orange,
22 672 F.3d 606, 616 (9th Cir. 2012); Survivor Media, Inc. v. Survivor Productions, 406 F.3d 625,
23 635 (9th Cir. 2005); Hallett v. Morgan, 296 F.3d 732, 751 (9th Cir. 2002), and where the
24 discovery request seeks information which, based on the record, is clearly within the scope of
25 discovery and the objection lacks merit, the Court may elect to exercise its discretion to reach the

26 See ECF No. 1. However, the court takes judicial notice that plaintiff is proceeding in forma
27 pauperis in Roberts v. Brown, 2:11-cv-0474-MCE-DAD. See Harris v. County of Orange, 682
28 F.3d 1126, 1131-31 (9th Cir. 2012).

1 merits of the dispute. See e.g., Marti v. Baires, 2012 WL 2029720, at *3 (E.D. Cal. Jun.5, 2012);
2 Williams v. Adams, 2009 WL 1220311, at *1 (E.D. Cal. May 4, 2009). The court must limit
3 discovery if the burden of the proposed discovery outweighs its likely benefit. Fed. R. Civ. P.
4 26(b)(2)(C)(iii). “In each instance [of discovery], the determination whether ... information is
5 discoverable because it is relevant to the claims or defenses depends on the circumstances of the
6 pending action.” Fed. R. Civ. P. 26 Advisory Committee's Note (2000 Amendment) (Gap
7 Report) (Subdivision (b)(1).

8 III. Analysis

9 Based on defendant’s supplemental response of October 22, 2013, it now appears that
10 plaintiff’s motion to compel additional responses to his requests for production (RFP) nos. 1-6 is
11 moot. The motion will accordingly be denied on this ground.

12 Regarding plaintiff’s motion to compel a copy of his prison medical records, the court
13 notes that plaintiff’s second amended complaint alleges that he is a wheelchair-bound inmate who
14 was discriminated against solely on account of his disability. Specifically, plaintiff alleges that
15 after medical staff changed his mobility impairment designation, he needed placement in a
16 wheelchair accessible cell at HDSP. ECF No. 9 at 7. Because there were no wheelchair
17 accessible cells available, plaintiff was moved to the Correctional Treatment Center (CTC) at
18 High Desert State Prison on July 4, 2008. ECF No. 9 at 8-9. Plaintiff alleges that while housed
19 in the CTC he was denied access to his property, as well as yard and canteen privileges. Id. On
20 August 1, 2008, plaintiff alleges that his disability designation code was once again changed to
21 part-time wheelchair use not based on his improved medical condition, but rather due to the
22 ongoing lack of a wheelchair accessible cell at HDSP. Id. at 11. Plaintiff therefore alleges that
23 the CDCR violated the Americans with Disabilities Act (ADA).

24 Based on these allegations, plaintiff’s medical records from July 2008 appear relevant to
25 plaintiff’s claims. See Fed. R. Civ. P. 26(b)(1). While plaintiff’s placement in the CTC was
26 allegedly due to an ADA housing shortage and not any decline in his medical condition, CDCR
27 documents indicate that he was returned to HDSP when his health improved to the point that he
28 no longer needed a wheelchair full-time. See ECF No. 9 at 51. Defendant does not contend that

1 responding to this request would be overly burdensome. In fact, defendant submits plaintiff's
2 medical records from 2008 through 2011 as exhibits attached to its motion for summary
3 judgment. See ECF Nos. 46-5 at 9-102, 46-6 at 1-88. However, there are no records from July
4 2008 included in these exhibits. Therefore, to the extent any such records exist, plaintiff's motion
5 to compel additional responses to his requests for production (RFP) no. 9 will be granted.

6 IV. Summary Judgment Opposition Deadline

7 The Court takes notice that defendant filed a motion for summary judgment while
8 plaintiff's motion to compel was pending. Plaintiff's opposition to the summary judgment motion
9 is currently due by January 26, 2014. See ECF No. 44. Given the extensions of the dispositive
10 motions deadline that have been granted to defendant as well as plaintiff's pro se status, the Court
11 finds good cause to extend plaintiff's deadline to submit his opposition to defendant's motion for
12 summary judgment.

13 Based on the foregoing, it is HEREBY ORDERED that:

14 1. Plaintiff's Motion to Compel further production of documents from defendant CDCR
15 (ECF No. 34) is granted in part and denied in part as follows:

- 16 a) Denied as to RFP Nos. 1-6 based on mootness;
17 b) Granted as to RFP No. 9.

18 2. Defendant is ordered to provide a copy of plaintiff's medical records from July 2008
19 within 30 days from the date of this order.

20 3. Plaintiff's time to file an opposition to defendant's motion for summary judgment
21 (ECF No. 46) is extended to thirty days from the date of receipt of his medical records from
22 defendant.

23 3. Defendant's reply, if any, shall be filed within seven days thereafter.

24 DATED: January 8, 2014

25 
26 ALLISON CLAIRE
27 UNITED STATES MAGISTRATE JUDGE
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