

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MARTIN WARE,
Plaintiff,
v.
M. MCDONALD, et al.,
Defendants.

No. 2:12-cv-1505 TLN KJN P

ORDER

Plaintiff is a state prisoner, proceeding pro se, in this civil rights action for relief pursuant to 42 U.S.C. § 1983. On May 18, 2015, plaintiff filed a reply to defendants’ answer. However, by order filed May 15, 2015, plaintiff’s request for an extension of time to file a reply to defendants’ answer was denied. (ECF No. 78.) As set forth therein, the court declined to order a reply to the answer pursuant to Rule 7(a) of the Federal Rules of Civil Procedure. (ECF No. 78 at 1.) Thus, plaintiff’s reply is disregarded.

Within his filing, plaintiff mentions a request for production of documents. Requests for the production of documents are governed by Rule 34 of the Federal Rules of Civil Procedure. Plaintiff is informed that court permission is not necessary for discovery requests and that neither discovery requests served on an opposing party nor that party’s responses should be filed until such time as a party becomes dissatisfied with a response and seeks relief from the court pursuant to the Federal Rules of Civil Procedure. Discovery requests between the parties shall not be filed

1 with the court unless, and until, they are at issue. Plaintiff may obtain pertinent documentary
2 evidence by reviewing his prison central and medical files through prison policies and
3 procedures.


4 Plaintiff seeks “a preliminary hearing on plaintiff’s motion for the court to grant summary
5 judgment on the pleadings.” (ECF No. 80 at 3.) However, plaintiff’s filing does not comport
6 with the requirements of Rule 56 of the Federal Rules of Civil Procedure or Local Rule 260(a),
7 and appears premature because discovery does not close until July 24, 2015. In addition, by order
8 filed October 17, 2013, plaintiff was provided with detailed information concerning the
9 requirements for opposing a motion for summary judgment. (ECF No. 46 at 4-5; 7.) Plaintiff is
10 advised that the court does not hold hearings on dispositive motions; rather, the motions are
11 submitted for decision once the final briefing is filed. Accordingly, the court does not construe
12 plaintiff’s filing as a dispositive motion, and denies plaintiff’s request for hearing.

13 Finally, the pretrial conference and jury trial dates will be set in a separate scheduling
14 order once dispositive motions, if any, are resolved. The pretrial conference date is a formality;
15 no hearing is held; rather, the court issues the pretrial order based on the pretrial statements filed
16 by the parties.

17 Accordingly, IT IS HEREBY ORDERED that:

- 18 1. Plaintiff’s reply to defendants’ answer (ECF No. 80) is disregarded; and
- 19 2. Plaintiff’s request for a hearing is denied;

20 Dated: June 1, 2015

21 
22 _____
KENDALL J. NEWMAN
23 UNITED STATES MAGISTRATE JUDGE

24 ware1505.77e2