1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF CALIFORNIA 10 11 WILBUR ATCHERLEY, No. 2:13-cv-0576 KJM AC P 12 Plaintiff. 13 **ORDER** v. 14 J. HANNA, et al., 15 Defendants. 16 17 Plaintiff is a state prisoner proceeding pro se and in forma pauperis in this civil rights action filed pursuant to 42 U.S.C. § 1983. This action proceeds on plaintiff's Second Amended 18 19 Complaint, ECF No. 39-1, on plaintiff's claims under the Americans with Disabilities Act, the 20 Rehabilitation Act, and the First and Eighth Amendments to the United States Constitution, 21 against defendants California Department of Corrections and Rehabilitation (CDCR), High Desert 22 State Prison (HDSP), and individual defendants Gricewich, Hanna, Owens, Garcia, Rivas, Wilson 23 and Payne. Presently pending are two motions for discovery filed by plaintiff, to which 24 defendants have responded. The discovery deadline in this action remains June 12, 2015. See 25 ECF No. 59. 26 Pursuant to his initial motion, filed February 27, 2015, plaintiff moves to compel 27 defendants CDCR and HDSP to produce documents responsive to plaintiff's Requests for 28 Production of Documents, served November 4, 2014. ECF No. 61. At issue are the I.S.T. 1

training reports of the individual defendants. Defendants CDCR and HDSP initially objected to 2 each subject request. See ECF No. 61, Exs. A, B. However, on March 23, 2015, in response to 3 plaintiff's motion, defendants filed a "Statement of Non-Opposition to Motion to Compel (ECF 4 No. 61)," wherein they state that they will provide the requested documents in redacted form, 5 ECF No. 65 at 2: 6 In light of the reasons stated in the Motion to Compel (ECF No. 61), Defendants CDCR and HDSP do not oppose this Motion to 7 Compel and agree to produce redacted copies of the I.S.T. Transcripts of Defendants Hanna, Owens, Gricewich, Wilson, 8 Garcia, and Rivas. 9 Plaintiff did not reply to defendants' response, which reasonably supports an inference 10 that plaintiff is satisfied with it. Defendants' description of the subject documents (correctional officer training materials and records) indicates that there are valid reasons for their limited 12 redaction. However, because defendants have not specified that they have already produced the redacted copies, including the records for defendant Payne, they will be ordered to do so. 13 14 15

Pursuant to his second motion, also filed February 27, 2015, plaintiff moves for a court order that deems admitted each of plaintiff's First Requests for Admission served on HDSP on November 11, 2014. ECF No. 62. Plaintiff challenged HDSP's objections to the requests served December 29, 2014. However, after the court extended discovery, by order filed December 30, 2014, HDSP served substantive responses to the requests, on March 22, 2015, subject to its previously-stated objections. See ECF No. 64, Ex. B.

Plaintiff has not replied to defendants' response to this motion, which reasonably supports an inference that plaintiff is satisfied with defendants' responses to his Requests for Admission. Therefore, this motion will be denied without prejudice as moot. The secondary matters raised in the motion – challenging defendants' affirmative defenses and suggestion that they may seek to file an amended answer – are premature and therefore denied without prejudice.

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Defendant Payne's name is missing from defendants' response, without explanation; review of the docket and the parties' filings fails to indicate a reason why his records should be excluded.

## Accordingly, IT IS HEREBY ORDERED that:

- 1. Plaintiff's motion to compel further production of documents, ECF No. 61, is granted; if defendants CDCR and HDSP have not already done so, they shall, within fourteen days after the filing date of this order, produce appropriately redacted copies of the I.S.T. Transcripts of defendants Hanna, Owens, Gricewich, Wilson, Garcia, Rivas and Payne.
- 2. Plaintiff's motion for a court order, ECF No. 62, is denied without prejudice as moot; the additional matters raised in plaintiff's motion are denied without prejudice.

DATED: April 6, 2015

ALLISON CLAIRE

UNITED STATES MAGISTRATE JUDGE