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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

LEON E. MORRIS,
Plaintiff,
v.
C. M. GREEN,
Defendant.

No. 2:13-cv-0589 JAM CKD P

ORDER

On February 13, 2015, defendant filed a motion to compel plaintiff to cooperate in a second deposition and to extend the discovery deadline to allow this deposition to take place. (ECF No. 38.) As plaintiff has not timely opposed the motion, the court considers it unopposed.

Having reviewed defendant’s motion and supporting papers, the court concludes that the factors of timeliness, good cause, utility, and materiality weigh in favor of granting the motion to compel plaintiff’s deposition. See CSC Holdings, Inc. v. Redisi, 309 F.3d 988, 992 (7th Cir. 2002); Fed. R. Civ. P. 37(a)(3)(B)(i), 37(d)(1)(A)(i). At his January 22, 2015 deposition by defendant’s counsel, plaintiff was evasive and hostile. After concluding that it would be futile to continue questioning plaintiff about facts relevant to this case, defense counsel terminated the deposition. In short, plaintiff has not cooperated in discovery that is necessary to the furtherance of this litigation, which he initiated.

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1 At this time, the court will deny defendant's request for monetary sanctions, as plaintiff is
2 an indigent prisoner. However, if plaintiff again refuses to subject himself to meaningful
3 deposition, the court will consider the sanction of dismissing this action pursuant to Rule 37.

4 Accordingly, IT IS HEREBY ORDERED that:

5 1. Defendant's motion to compel and extend discovery (ECF No. 38) is granted as
6 follows:

7 a. Within 21 days of the date of this order, defendant shall serve plaintiff with a notice of
8 deposition. If plaintiff does not reasonably cooperate in his deposition on the scheduled date, the
9 court will consider recommending dismissal of this action.

10 b. Defendants' request for monetary sanctions is denied.

11 c. The discovery and dispositive motion deadlines in the Discovery and Scheduling Order
12 (ECF No. 35) are hereby vacated.

13 d. The parties may conduct discovery until June 12, 2015. Any motions necessary to
14 compel discovery shall be filed by that date.

15 e. All pretrial motions, except motions to compel discovery, shall be filed on or before
16 September 19, 2015.

17 Dated: March 12, 2015

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20 CAROLYN K. DELANEY
21 UNITED STATES MAGISTRATE JUDGE

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