

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

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

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

ORDER

This pro se prisoner action pursuant to 42 U.S.C. § 1983 proceeds against defendant Green. Plaintiff claims that Green retaliated against him for filing inmate grievances and failed to process plaintiff’s legal mail in December 2011. (ECF No. 1 at 5-6.)

Plaintiff has filed two motions “for sanctions and judicial intervention,” now before the court. (ECF Nos. 36 & 37.) Defendant has opposed the motions. (ECF Nos. 43 & 41.) Both motions seek to compel defendant to produce discovery.

I. Legal Standard

Under Rule 26 of the Federal Rules of Civil Procedure, “[p]arties may obtain discovery regarding any non-privileged matter that is relevant to any party’s claim or defense. Fed. R. Civ. P. 26(b). “Relevant information need not be admissible at trial if the discovery appears reasonably calculated to lead to the discovery of admissible evidence.” Id.

////

1 With respect to requests for production, a party may propound requests for production of
2 documents that are within the scope of Federal Rule of Civil Procedure 26(b). Fed. R. Civ. P.
3 34(a). With respect to interrogatories, a party may propound interrogatories related to any matter
4 that may be inquired into under Federal Rule of Civil Procedure 26(b). Fed. R. Civ. P. 33(a)(2).

5 Under Rule 37 of the Federal Rules of Civil Procedure, “a party seeking discovery may
6 move for an order compelling an answer, designation, production, or inspection.” Fed. R. Civ. P.
7 37(a)(3) (B). The court may order a party to provide further responses to an “evasive or
8 incomplete disclosure, answer, or response.” Fed. R. Civ. P. 37(a)(4). “District courts have
9 ‘broad discretion to manage discovery and to control the course of litigation under Federal Rule
10 of Civil Procedure 16.’” Hunt v. County of Orange, 672 F.3d 606, 616 (9th Cir. 2012).

11 II. January 26, 2015 Motion

12 Plaintiff states that, in November 2014, he served interrogatories and requests for
13 production of documents on defendant and defendant’s attorney. (ECF No. 36 at 1.) He asserts
14 that defendant has “not cooperated” in responding to these requests. (Id. at 2.) He asks that the
15 court “compel compliance and impose sanctions” on defendant and defendant’s attorney. (Id.)

16 Plaintiff does not specify which discovery responses he finds inadequate. From the
17 attached discovery materials, it appears that he refers to Interrogatories No. 9 and 10, which ask
18 whether Green has ever had “a CDC 602 filed against you” and how many such grievances have
19 been filed against Green. (Id. at 10-11.) He may also refer to Interrogatory No. 11, which asks
20 “What were the reasons 602’s have been filed against you?” (Id. at 11.)

21 In his response to Interrogatories No. 9 and 10, defendant objected on various grounds,
22 including overbreadth, vagueness, and irrelevance. (Id. at 10.) Defendant also objected that the
23 requests sought personnel documents that are protected from disclosure under state law.
24 Defendant further objected that the information was confidential and would pose a security
25 hazard if disclosed. (Id. at 10-11.) Subject to these objections, defendant stated that plaintiff
26 himself had submitted two 602s against defendant. (Id.) In response to Interrogatory No. 11,
27 defendant raised similar objections and referred plaintiff to 602 grievances filed by plaintiff and
28 contained in plaintiff’s central file. (Id. at 11-12.)

1 In his motion, plaintiff asserts that he “has a right to know how many 602 complaints have
2 been filed against defendant Green and what the issue of the complaint was about.” (Id. at 2.) He
3 takes issue with defendant’s response that such information “jeopardizes the safety and security”
4 of the prison or “the confidentiality of anyone, prisoner or otherwise.” (Id.)

5 Plaintiff also refers in his motion to an “activity log” maintained by defendant and other
6 prison staff. (ECF No. 36 at 4.) He attaches a set of requests for production of documents, one of
7 which concerns the activity log, along with defendant’s responses. However, plaintiff does not
8 specify which response(s) he disputes or why the material sought is relevant.

9 In opposition to the motion, defendant argues that plaintiff’s motion should be denied
10 because plaintiff did not try to informally resolve the discovery dispute. See Fed. R. Civ. P.
11 37(a). (ECF No. 43 at 2.) Because plaintiff is proceeding pro se while incarcerated, the court
12 will not deny his motion on this basis.

13 However, plaintiff is required to specify which discovery responses are at issue and why
14 the information sought is relevant. See Johnson v. Sandy, No. 2:12-cv-2922 JAM AC P, 2014
15 WL 4631642, at *4 (E.D. Cal. Sept. 15, 2014) (“The party seeking to compel discovery has the
16 burden of establishing that its request satisfies the relevancy requirements of Rule 26(b)(1). The
17 party opposing discovery *then* has the burden of showing that the discovery should be prohibited,
18 and the burden of clarifying, explaining, or supporting its objections.”) (citation omitted)
19 (emphasis added); Walker v. Karelak, No. CIV S-07-2545 MCE DAD P, 2009 WL 3075575, at*1
20 (E.D. Cal. Sept. 21, 2009) (“The court does not hold pro se litigants to the same standards that it
21 holds attorneys. However, at a minimum, as the moving party, the plaintiff has the burden of
22 informing the court which discovery responses are disputed, why the defendant’s objections are
23 not justified, and why the information he seeks through discovery is relevant to the prosecution of
24 this action.”) (citing cases).

25 Here, plaintiff has not specified which responses he objects to and has made no attempt to
26 explain why the information he seeks is relevant to his claim(s). Because plaintiff has not met
27 his initial burden for compelling discovery, the court does not reach the question of whether the
28 records at issue are privileged and confidential, as defendant claims. Nor has plaintiff made a

1 showing that discovery sanctions are warranted. Thus the court will deny this motion.

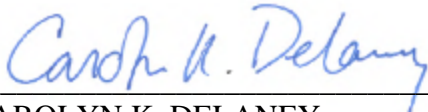
2 III. February 4, 2015 Motion

3 In a similar motion filed days later, plaintiff states that defendant answered only two of
4 the seven interrogatories he sent, and as to the remaining five “defendant skirted around or
5 outright lied about.” (ECF No. 27 at 1-2.) Plaintiff attaches discovery materials but does not
6 identify which responses he found inadequate or why. Nor has he shown that discovery sanctions
7 are warranted. For the reasons discussed above, the court will deny this motion also.

8 Accordingly, IT IS HEREBY ORDERED that:

- 9 1. Plaintiff’s January 26, 2015 motion (ECF No. 36) is denied; and
10 2. Plaintiff’s February 4, 2015 motion (ECF No. 37) is denied.

11 Dated: May 6, 2015



CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE